

FIFTY-NINTH DAY
(Tuesday, May 4, 1993)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by Senator Shapiro.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Rabbi Yosef Levertov, Chabad House-Lubavitch, Austin, offered the invocation as follows:

Almighty G-d, master of the universe, we stand before You, in prayer, in this period which in continuation to the celebration of the exodus we are counting the days, to the day You have revealed Yourself at Mount Sinai. When You revealed Yourself, 3,305 years ago, You uttered the Ten Commandments laying down the basic foundations upon which nations are to build their laws. These laws are to bring the world to its perfection, and then when mankind does its utmost to perfect it, You will reveal Yourself on this world permanently, as the psalmist King David chants: Yimloch A-don-oi leolam Eloh-yich tzion ledo vador Haleluy-a. The L-rd shall reign forever; Your G-d, O Zion, throughout all generations. Praise the L-rd.

Your servant, Rabbi Menachem M. Schneerson, the world renowned Lubavitcher Rebbe, may he be in good health and have long life, claims: This time, the time for world redemption, is imminent, that Moshiach, is on the way.

O heavenly Father, sovereign ruler of men and nations, grant that this great state and its leaders be cognizant of Your presence in their lives. Grant the governor and the leaders of this great State of Texas Your assistance and guidance to minister laws of goodness and kindness, to bring the coming of Moshiach a day earlier to quickly end suffering and misery, and bless them with good health and good cheer so that they may fulfill their vital tasks with joy and gladness of heart. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 31

On motion of Senator Moncrief and by unanimous consent, Senator West will be shown as Co-author of S.B. 31.

CO-AUTHOR OF SENATE BILL 437

On motion of Senator Brown and by unanimous consent, Senator Shapiro will be shown as Co-author of S.B. 437.

CO-AUTHOR OF SENATE BILL 697

On motion of Senator Shapiro and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 697.

CO-AUTHOR OF SENATE BILL 924

On motion of Senator Moncrief and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 924.

CO-AUTHOR OF SENATE RESOLUTION 774

On motion of Senator Luna and by unanimous consent, Senator Madla will be shown as Co-author of S.R. 774.

CO-SPONSOR OF HOUSE BILL 871

On motion of Senator Armbrister and by unanimous consent, Senator Nelson will be shown as Co-sponsor of H.B. 871.

PERMISSION TO INTRODUCE BILLS

On motion of Senator Harris of Dallas and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills:

S.B. 1467	S.B. 1471
S.B. 1468	S.B. 1472
S.B. 1469	S.B. 1473
S.B. 1470	S.B. 1474

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.B. 298	S.B. 21
H.B. 521	S.B. 376
H.B. 634	S.B. 407
H.B. 791	S.B. 465
H.B. 966	S.B. 505
H.B. 989	S.B. 508
H.B. 1274	S.B. 513
H.B. 1453	S.B. 596
H.B. 1703	S.B. 664
H.C.R. 101	S.B. 792
H.C.R. 23	S.B. 982
S.C.R. 73	S.B. 997

MESSAGE FROM THE HOUSE

House Chamber
May 4, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to H.B. 1270 by a non-record vote.

H.C.R. 136, Commending the Honorable Bill Blackwood for his leadership and commitment to drug abuse prevention.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
May 4, 1993

TO THE SENATE OF THE SEVENTY-THIRD LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS COMMISSION ON LAW
ENFORCEMENT OFFICER STANDARDS AND EDUCATION for terms
to expire August 30, 1997:

SHERIFF CARL R. GRIFFITH, JR.

P. O. Box 2950

Beaumont, Texas 77704

Sheriff Griffith will be filling the unexpired term of Bill Bailey of Pasadena, who resigned.

JAMERSON J. BERRY, JR.

266 Oryan Court

Houston, Texas 77015

Officer Berry will be replacing Roger P. Dickey of Abilene, whose term expired.

TO BE A MEMBER OF THE TEXAS COMMISSION FOR THE DEAF
AND HEARING IMPAIRED for a term to expire January 31, 1999:

LARRY M. CORREU

16302 Clouded Crest

San Antonio, Texas 78217

Mr. Correu will be replacing Delores Erlandson of Big Spring, who was reappointed to the commission but to a different position.

Respectfully submitted,

/s/Ann W. Richards
Governor of Texas

GUEST PRESENTED

Senator Truan was recognized and introduced to the Senate Dr. Maria Luisa Garza, founder of the Gulf Coast Council of La Raza in Corpus Christi.

The Senate welcomed Dr. Garza as Senator Truan escorted her to the President's rostrum to receive an enrolled copy of S.R. 510.

The resolution was previously read and adopted on Tuesday, March 30, 1993.

CAPITOL PHYSICIAN

Senator Barrientos was recognized and presented Dr. Michael Lifshen of Austin as the "Doctor for the Day."

The Senate welcomed Dr. Lifshen and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 816

Senator Armbrister offered the following resolution:

WHEREAS, On May 4, 1993, Matagorda County Day will be celebrated by the proud citizens of Matagorda County in recognition of their illustrious county and its contributions to the State of Texas; and

WHEREAS, Established in 1829 when proprietors met and elected officers, the county grew and flourished when Texas became a republic in 1836; and

WHEREAS, Matagorda County is composed of 1,134 square miles, including Matagorda Bay, which falls under the jurisdiction of the county; about one-third of the land in this area is suited for agriculture; the principal agricultural crops are rice, cotton, milo, corn, grains, soybeans, and grass; and

WHEREAS, Because of frequent hurricanes, the county seat was moved from Matagorda to Bay City in 1894; and

WHEREAS, This delightful county possesses a healthy economic base; it is home to several commercial enterprises, including petrochemicals, nuclear power, plastics, oil and gas, and agricultural interests; and

WHEREAS, A lively place to visit, Matagorda County is the home of the colorful Shrimpooree and Blessing of the Fleet and Bayfest; and

WHEREAS, From its earliest days, citizens of the county have been participants in the history of Texas; today, the residents celebrate their heritage as well as the present and future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 73rd Legislature, hereby congratulate the citizens of the Matagorda area on the auspicious occasion of Matagorda County Day; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the residents of Matagorda County as an expression of best wishes from the Texas Senate for a most joyous celebration.

The resolution was read and was adopted by a viva voce vote.

SENATE BILL 248 WITH HOUSE AMENDMENTS

Senator Haley called S.B. 248 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. 248 as follows:

- (1) On page 6, line 3, strike "about" and substitute "concerning".
- (2) On page 23, strike lines 8 and 9 and substitute:
"(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or".
- (3) On page 39, line 7, strike "respectively".
- (4) On page 39, line 24, strike "before" and substitute "prior to".
- (5) On page 39, line 26, strike "before" and substitute "prior to".
- (6) On page 49, line 24, strike "adopt" and substitute "promulgate".
- (7) On page 51, strike line 16 and insert "clerk's office may not be more than the actual cost of copies, as".
- (8) On page 51, line 17, strike "only if" and substitute "unless".
- (9) On page 53, line 17, between "suit" and the period, insert "except as otherwise provided by Section 552.322".
- (10) On page 55, line 8, strike "APPLICATION" and substitute "SUIT".
- (11) On page 55, line 9, strike "apply" and substitute "file suit".
- (12) On page 162, line 25, between "to" and "a", insert "the benefit of".
- (13) On page 209, between lines 13 and 14, insert:
 - (1) "Program administrator" means:
 - (A) for a state employee employed by The University of Texas System or The Texas A&M University System, the applicable system; or
 - (B) for every other state employee, the Employees Retirement System of Texas.
- (14) On page 209, line 14, strike "(1)" and substitute "(2)".
- (15) On page 209, line 16, strike "(2)" and substitute "(3)".
- (16) On page 209, line 19, strike "(3)" and substitute "(4)".
- (17) On page 210, line 2, strike "(4)" and substitute "(5)".
- (18) On page 210, line 22, strike "comptroller" and substitute "program administrator".
- (19) On page 211, line 2, strike "to the comptroller" and substitute "to the program administrator".
- (20) On page 211, line 5, strike "comptroller" and substitute "program administrator".
- (21) On page 211, line 7, strike "comptroller" and substitute "program administrator".
- (22) On page 211, line 23, strike "comptroller" and substitute "program administrator".
- (23) On page 211, line 25, strike "comptroller" and substitute "program administrator".
- (24) On page 214, line 25, between "reimbursement," and "from" insert "in addition to any compensation provided in the General Appropriations Act,".
- (25) On page 245, line 22, strike "in a year" and substitute "preceding the day".

(26) On page 246, line 16, between "(A)" and the period, insert "by the expiration of the officeholder's term of office".

(27) On page 251, line 16, between "bring" and "an", insert "or cause to be brought".

(28) On page 255, line 21, between "requirements" and "in", insert "or similar requirements".

(29) On page 258, line 4, strike "necessary and desirable recommendations" and substitute "recommendations that the classification officer finds necessary and desirable".

(30) On page 258, line 12, between "the" and "officer's", insert "classification".

(31) On page 258, lines 14 and 15, strike "in each even-numbered year" and substitute "preceding each regular session of the legislature".

(32) On page 259, line 20, between "examine" and the comma, insert "or cause to be examined".

(33) On page 263, line 27, strike "institution,".

(34) On page 265, between lines 10 and 11, insert the following:

Sec. 656.042. FINDINGS AND PURPOSE. Programs for the training and education of state administrators and employees materially aid effective state administration, and public money spent on those programs serves an important public purpose. (V.A.C.S. Art. 6252-11a, Sec. 2.)

(35) On page 265, line 11, strike "656.042" and substitute "656.043".

(36) On page 265, line 15, strike "656.043" and substitute "656.044".

(37) On page 265, line 21, strike "656.044" and substitute "656.045".

(38) On page 265, line 27, strike "656.045" and substitute "656.046".

(39) On page 266, line 10, strike "656.046" and substitute "656.047".

(40) On page 266, line 16, strike "656.047" and substitute "656.048".

(41) On page 266, line 25, strike "656.048" and substitute "656.049".

(42) On page 267, lines 1 and 2, strike ", including joint training or education" and substitute "or may join in presenting a training or educational program".

(43) On page 263, lines 4-11, amend the subchapter outline appropriately.

(44) On page 270, line 17, strike "Subsections (a) and (b)" and substitute "Section 657.005".

(45) On page 289, line 17, strike "required" and substitute "requested".

(46) On page 289, strike lines 22-27 and on page 290, strike lines 1-3, and substitute:

"to reimbursement for travel expenses:

(1) incurred by an official or employee of the athletic department of an institution of higher education;

(2) to an official or employee of an institution of higher education from a gift or bequest; or

(3) of an official or employee of an institution of higher education if the expenses are paid or reimbursed to the institution under a contract between the institution and the federal government or another contracting agency."

(47) On page 290, line 19, strike "adopted" and substitute "prescribed".

(48) On page 291, line 9, strike "International Trade Commission" and substitute "International Trade Development Division".

(49) On page 293, line 26, strike "or disapprove".

(50) On page 307, line 8, after "Justice;" insert "or".

(51) On page 307, line 22, strike "on" and substitute "as of".

(52) On page 308, line 9, strike "on" and substitute "time as of".

(53) On page 311, line 8, after "exhausted;" insert "and".

(54) On page 313, lines 20 and 21, strike "an hourly or temporary" and substitute "a".

(55) On page 322, line 1, strike "This chapter does" and substitute the following: "Sections 663.003, 663.103, 663.104, and 663.105 do".

(56) On page 323, lines 18 and 19, strike ", each of whom has at least one child in a child care facility; and" and substitute the following:

“:

(A) each of whom has at least one child in a child care facility; and

(B) if more than one is appointed, each of whom resides in a different geographic area of the state; and”.

(57) On page 326, line 22, strike "and" and substitute "or".

(58) On page 329, between lines 7 and 8, insert:

Sec. 664.002. FINDINGS AND PURPOSE. Effective state administration is materially enhanced by programs designed to encourage and create a condition of health fitness in state administrators and employees and public money spent for these programs serves important public purposes, including:

(1) an understanding and diminution of the risk factors associated with society's most debilitating diseases;

(2) the development of greater work productivity and capacity;

(3) a reduction in absenteeism;

(4) a reduction of health insurance costs; and

(5) an increase in the general level of fitness. (V.A.C.S. Art. 6252-27, Sec. 2.)

(59) On page 329, line 8, strike "664.002" and substitute "664.003".

(60) On page 329, line 11, strike "664.003" and substitute "664.004".

(61) On page 329, line 17, strike "664.004" and substitute "664.005".

(62) On page 329, line 25, strike "664.005" and substitute "664.006".

(63) On page 328, lines 24-27, and page 329, lines 1-3, amend the chapter outline appropriately.

(64) On page 357, line 18, between "A" and "proceeding", insert "person must initiate a".

(65) On page 357, line 20, strike "must begin".

(66) On page 358, line 11, between "agency" and "finding" insert "shall file with its rule the".

(67) On page 358, at the end of line 11, insert ", if applicable,".

(68) On page 358, lines 12 and 13, strike "shall be filed with the rule".

(69) On page 358, lines 18 and 19, strike "there is a conflict" and substitute "a conflict exists".

- (70) On page 362, line 16, between "hearing" and "but", insert a comma.
- (71) On page 362, line 16, strike "may not be supervised by".
- (72) On page 362, line 17, between "case" and the period, insert "may not supervise the administrative law judge".
- (73) On page 364, line 6, between "agency" and the period, insert "unless prohibited by other law".
- (74) On page 365, line 15, before "apply", insert "shall".
- (75) On page 367, lines 2 and 3, strike "there is".
- (76) On page 367, line 4, strike "a showing of good cause" and substitute "good cause is shown".
- (77) On page 367, line 5, strike "a deposit of an amount" and substitute "an amount is deposited".
- (78) On page 368, line 20, between "prescribe" and "terms", insert "other".
- (79) On page 409, strike lines 4 and 5 and substitute:
"Sec. 2005.005. DUTY OF HEAD OF AGENCY. The head of each state agency shall ensure that the agency".
- (80) On page 414, line 19, strike "and" and substitute "or".
- (81) On page 472, line 27, strike "for" and substitute "from".
- (82) On page 473, between lines 25 and 26, insert "computer and other data processing".
- (83) On page 485, line 23, strike "federal census" and substitute "federal decennial census".
- (84) On page 485, line 27, strike "federal census" and substitute "federal decennial census".
- (85) On page 486, line 4, strike "federal census" and substitute "census".
- (86) On page 486, line 8, strike "federal census" and substitute "census".
- (87) On page 486, line 14, strike "federal" and substitute "federal decennial".
- (88) On page 486, line 19, strike "federal census" and substitute "federal decennial census".
- (89) On page 503, strike line 21 and substitute the following: "voucher to the comptroller before the comptroller may make an electronic funds transfer."
- (90) On page 504, strike line 8 and substitute the following: "executive director before the presiding officer or executive director may make or revoke a".
- (91) On page 504, line 20, strike "governing".
- (92) On page 504, strike line 21 and substitute: "officer or employee has been authorized or designated".
- (93) On page 505, line 27, strike "has authorized".
- (94) On page 506, strike lines 1-3 and substitute the following: "or the chief deputy, if authorized under Subsection (b) or (c), has designated the officer or employee to approve vouchers;"
- (95) On page 633, line 9, between "services" and "or", insert "or a group or association of providers".

- (96) On page 641, line 10, after "renewal", insert "contract".
- (97) On page 641, line 12, after "renewal", insert "contract".
- (98) On page 641, line 22, after "the", insert "contract after the".
- (99) On page 641, line 24, after "the", insert "contract after the".
- (100) On page 819, line 15, between "shall" and "adopt" insert "have the specific duty and power to".
- (101) On page 819, line 21, strike "must" and substitute the following: "shall have the specific duty and power to".
- (102) On page 819, line 25, strike "The board shall" and substitute the following: "It is the duty of the board to".
- (103) On page 820, line 9, between "shall" and "adopt" insert "have the specific duty and power to".
- (104) On page 820, line 14, between "shall" and "establish" insert "have the specific duty and power to".
- (105) On page 820, lines 17 and 18, between "shall" and "establish" insert "have the specific duty and power to".
- (106) On page 820, lines 23 and 24, between "shall" and "adopt" insert "have the specific duty and power to".
- (107) On page 821, line 1, before "compile" insert "have the specific duty and power to".
- (108) On page 821, line 3, between "shall" and "adopt" insert "have the specific duty and power to".
- (109) On page 821, line 8, between "shall" and "adopt" insert "have the specific duty and power to".
- (110) On page 821, lines 12 and 13, between "shall" and "establish" insert "have the specific duty and power to".
- (111) On page 865, line 16, after the period, insert "(V.A.C.S. Art. 29c.)".
- (112) On page 889, line 23, after the period, insert "(V.A.C.S. Art. 29e (part).)".
- (113) On page 892, line 11, after the period, insert "(V.A.C.S. Art. 3904 (part).)".
- (114) On page 892, line 17, after the period, insert "(V.A.C.S. Art. 14.)".
- (115) On page 893, line 4, after the period, insert "(V.A.C.S. Art. 23a.)".
- (116) On page 899, line 22, after the period, insert "(V.A.C.S. Art. 6252-9aa.)".
- (117) On page 900, line 15, after the period, insert "(V.A.C.S. Art. 6252-31, Sec. 7, as added Acts 72nd Leg., R.S., Ch. 384.)".
- (118) On page 900, line 24, after the period, insert "(V.A.C.S. Art. 5248f, Secs. 1, 2.)".
- (119) On page 901, line 16, after the period, insert "(V.A.C.S. Art. 2529c, Sec. 2 (part).)".
- (120) On page 901, line 23, after the period, insert "(V.A.C.S. Art. 6252-4b.)".
- (121) On page 903, line 4, after the period, insert "(V.A.C.S. Art. 1f, Sec. 2.08(a).)".

(122) On page 903, line 13, after the period, insert "(V.A.C.S. Art. 6000.)".

(123) On page 903, line 16, after the period, insert "(V.A.C.S. Art. 6001 (part).)".

(124) On page 903, line 23, after the period, insert "(V.A.C.S. Art. 6001 (part).)".

(125) On page 904, line 6, after the period, insert "(V.A.C.S. Art. 6001 (part).)".

(126) On page 904, line 10, after the period, insert "(V.A.C.S. Art. 6001 (part).)".

(127) On page 904, line 14, after the period, insert "(V.A.C.S. Art. 6001 (part).)".

(128) On page 904, line 24, after the period, insert "(V.A.C.S. Art. 6002.)".

(129) On page 905, line 12, after the period, insert "(V.A.C.S. Art. 29e (part).)".

(130) On page 906, line 5, after the period, insert "(V.A.C.S. Art. 29e (part).)".

(131) On page 906, line 19, after the period, insert "(V.A.C.S. Art. 29e (part).)".

(132) On page 907, line 6, after the period, insert "(V.A.C.S. Art. 29e (part).)".

(133) On page 908, line 13, after the period, insert "(V.A.C.S. Art. 3904 (part).)".

(134) On page 908, line 25, after the period, insert "(V.A.C.S. Art. 3904 (part).)".

(135) On page 909, line 7, after the period, insert "(V.A.C.S. Art. 3909 (part).)".

(136) On page 909, line 27, after the period, insert "(V.A.C.S. Arts. 2568, 2569.)".

(137) On page 910, line 23, after the period, insert "(V.A.C.S. Art. 2529c, Sec. 2 (part).)".

(138) On page 911, line 14, after the period, insert "(V.A.C.S. Art. 29b(a).)".

(139) On page 912, line 10, after the period, insert "(V.A.C.S. Arts. 29b(b), (c).)".

(140) On page 914, strike lines 9-11 and substitute the following:
"federal social security program in accordance with Chapter 606,
Government Code [500, ~~Acts of the 52nd Legislature, 1951~~
(~~Article 695g, Vernon's Texas Civil Statutes~~)]";

(141) On page 914, line 17, strike "691," and substitute "606."

(142) On page 914, strike lines 21-23 and substitute the following:
"compensation plan in accordance with Chapter 609, Government Code
[197, ~~Acts of the 63rd Legislature, Regular Session, 1973~~
(~~Article 6252-3b, Vernon's Texas Civil Statutes~~)]"; or".

(143) On page 944, line 19, between "5165.2;" and "5165.6;", insert
"5165.3;"

(144) On page 944, line 20, between "5221g;" and "5240;", insert
"5221g-2;"

(145) On page 946, between lines 6 and 7, insert:

(e) The repeal of Article 6252-20b, Vernon's Texas Civil Statutes, by Section 46 of this Act and the codification of that article as Chapter 659, Government Code, by Section 1 of this Act does not affect a state employee who received hazardous duty pay based on total state service performed before May 29, 1987, and the employee is entitled to receive hazardous duty pay based on those services if, on or after May 29, 1987, the employee holds a position that requires the performance of hazardous duty pay. Any other state employee who before May 29, 1987, received hazardous duty pay based on the terms of any law enacted by the legislature of this state is entitled to continue to receive hazardous duty pay for services performed on or after May 29, 1987, in any position designated under that law as eligible for the pay.

Amendment No. 2

Amend Committee Amendment No. 1 to S.B. 248 as follows:

(1) On page 13, line 20, strike "pay".

(2) On page 13, after line 25, insert:

(146) On page 946, line 1, strike "6251-31" and substitute "6252-31".

(147) On page 946, line 2, strike "73rd" and substitute "72nd".

The amendments were read.

On motion of Senator Haley and by unanimous consent, the Senate concurred in the House amendments to S.B. 248 by a viva voce vote.

(President in Chair)

SENATE BILL 27 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 27 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 27 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to cancellation of wine and beer retailer permits and retail dealer on-premise licenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 61, Alcoholic Beverage Code, is amended by adding Section 61.721 to read as follows:

Sec. 61.721. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN MUNICIPALITIES. The commission or administrator may cancel an original or a renewal wine and beer retailer's permit or retail dealer's on-premise license and may refuse to issue any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the chief of police of the city or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(2) the commission or administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendment to S.B. 27 by the following vote: Yeas 31, Nays 0.

SENATE BILL 154 WITH HOUSE AMENDMENTS

Senator Whitmire called S.B. 154 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 154 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the construction, reconstruction, and maintenance of improvements by certain mass transit authorities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by amending Subsection (u) and adding Subsections (x), (y), and (z) to read as follows:

(u) An Authority may not act under Subsection (t) or (x) of this section in a municipality without:

(1) the consent of the governing body of the municipality; or

(2) a contract with the municipality that specifies the actions the Authority may take in the municipality.

(x) Except as provided by Subsection (u) of this section, an Authority that was confirmed at a tax election under Section 5 of this Act before January 1, 1985, other than an Authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex, may, within the boundaries of the Authority, construct, reconstruct, or maintain any sidewalk, hiking trail, or biking trail. An Authority subject to this subsection also may install or maintain streetlights. In performing these activities, an Authority may perform such drainage improvement or drainage-related maintenance activities as are reasonable and necessary for the effective use of the transportation facility being constructed, reconstructed, or maintained. An Authority may exercise any portion of the powers granted by this subsection through contracts or other agreements with other governmental entities and, in particular, may enter into agreements under the Government Code, Chapter 791 with state agencies enumerated in Government Code, Section 771.002.

(y) If, after the effective date of this act, an Authority does not have a currently updated Disadvantaged Business Enterprise Program, as defined in 49 Code of Federal Regulations, part 23, which facilitates the participation of minorities and women in contracts awarded, the legislature recommends the Authority establish goals for such participation. In the absence of such a current program, the legislature recommends minimum goals for participation by women and minorities be adopted as follows: 17 percent for construction contracts, 11 percent for purchasing contracts, and 24 percent for professional services, or the weighted average equivalent of the three foregoing categories.

(z)(1) The total amount that an Authority created before January 1, 1980, in which the principal city has a population greater than 1,200,000, as determined by the most recent federal decennial census, may spend out of its sales tax revenue and interest income on all items described by Subsection (x) of this section in any five-year period may not exceed 7 percent of the Authority's total sales tax revenue and interest income for that period.

(2) For any fiscal year in which an Authority created before January 1, 1980, in which the principal city has a population greater than 1,200,000, as determined by the most recent federal decennial census, spends an amount which exceeds the limits in Subdivision (1) of this subsection, the qualified voters of the Authority by petition may require that an election be held on the question of reducing or eliminating expenditures in any category of spending authorized under Subsection (x) and not otherwise authorized under Subsection (t). A petition is valid if it is signed by qualified voters of the Authority equal in number to at least 10 percent of the number of voters of the Authority voting in the previous governor's election, if the signatures are collected within a period of 90 days before the date on which the petition is presented to the Board of the Authority, and if it is presented to the Board of the Authority not later than the second anniversary of the last day of the fiscal year during which the expenditures of the Authority exceeded the amount determined by Subdivision (1) of this subsection.

(3) After receiving a petition under this subsection, the Board shall submit the petition to the secretary of state for validation. The secretary of state shall rule on the validity of the petition not later than the 30th day after the date the secretary of state receives the petition and shall notify the Board of the ruling. If the secretary of state finds the petition valid or fails to act within the time allowed, the Board shall call an election to be held on the next uniform election date no less than sixty days after the Board orders the election. The Authority shall pay any costs of determining the validity of a petition and of the election.

(4) At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The reduction (or elimination) of expenditures for _____ (category of spending to be reduced or eliminated)." The reduction or elimination of expenditures is effective if it is approved by a majority of the votes cast by voters residing within the boundaries of the territory of the Authority on the date of the election.

SECTION 2. The limitations on expenditures and the potential consequences of exceeding those limitations provided by Subsection (z), Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), as added by this Act, apply only to expenditures in a fiscal year that begins on or after the effective date of this Act.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 1

Amend C.S.S.B. 154 as follows:

On page 4, line 16, insert a new SECTION 3, and renumber the existing SECTION 3 as SECTION 4:

SECTION 3. Nothing in this act shall be construed to validate any action taken by the Authority prior to the effective date of this Act.

Amendment No. 1 on Third Reading

Amend C.S.S.B. 154, as amended on second reading, by adding an appropriately numbered section to read as follows and by renumbering subsequent sections appropriately:

SECTION _____. Section 6E, chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6E. The rates, fares, tolls, charges, rents, and other compensation established by an authority in a metropolitan area whose principal city has a population of less than 1,200,000, according to the most recent federal census, may not take effect until they are approved by a majority vote of a committee composed of:

(a) five members of the city council of the principal city who are chosen for this committee by the members of that body;

(b) three members of the commissioners court of the county that includes the largest portion of the incorporated area of the principal city, who are chosen for this committee by the members of that court; and

(c) three mayors of incorporated municipalities, except the principal city, located within the authority who are chosen for this committee jointly by the mayors of all incorporated municipalities, except the principal city, located within the authority, except that for an authority in which the principal city has a population of less than 300,000, according to the most recent federal census, said three mayors serving on the committee shall be chosen by the mayor of the municipality of greatest population among such incorporated municipalities, except the principal city.

The amendments were read.

On motion of Senator Whitmire and by unanimous consent, the Senate concurred in the House amendments to S.B. 154 by the following vote: Yeas 31, Nays 0.

SENATE BILL 777 WITH HOUSE AMENDMENT

Senator Henderson called S.B. 777 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 777 as follows:

(1) Insert a new Section 2 to the bill to read as follows:

SECTION 2. Section 311.027, Government Code, is amended to read as follows:

Sec. 311.027. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

(2) In current Section 2 of the bill, in added Section 312.008, Government Code (page 1, lines 16 and 17, House Committee Report), after "statute", insert "rule, or regulation".

(3) Renumber current Sections 2, 3, and 4 of the bill as Sections 3, 4, and 5, respectively.

The amendment was read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendment to S.B. 777 by the following vote: Yeas 31, Nays 0.

SENATE BILL 506 WITH HOUSE AMENDMENTS

Senator Henderson called S.B. 506 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 506 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation of multiple panels of, and to the operation of, a municipality's zoning board of adjustment; providing for the repeal of zoning regulations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (b), (c), and (e), Section 211.008, Local Government Code, are amended to read as follows:

(b) A board of adjustment must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of ~~four~~ alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter. Meetings of the board are held at the call of the presiding officer ~~chairman~~ and at other times as determined by the board. The presiding officer ~~chairman~~ or acting presiding officer ~~chairman~~ may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

SECTION 2. Subsection (a), Section 211.009, Local Government Code, is amended to read as follows:

(a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so; ~~and~~

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; ~~and~~

~~(4) hear and decide other matters authorized by an ordinance adopted under this subchapter.~~

SECTION 3. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.014 to read as follows:

Sec. 211.014. PANEL OF BOARD OF ADJUSTMENT. (a) This section applies only to a municipality with a population of 1,000,000 or more.

(b) A board of adjustment shall consist of one or more panels of five members each to be appointed for terms of two years. If more than one panel of the board is appointed, the board consists of the regular members of all of the panels. The board may adopt rules for the assignment of appeals to a panel.

(c) If the board consists of more than one panel, only one panel may hear, handle, or render a decision in a particular case. A decision of a panel of the board on a case constitutes the decision of the board.

(d) Meetings of a panel of the board are held at the call of the presiding officer of the panel and at other times as determined by the panel or the board.

(e) A panel of a board of adjustment has the powers and duties that a board of adjustment has under Sections 211.008, 211.009, 211.010, and 211.011.

SECTION 4. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.015 to read as follows:

Sec. 211.015. ZONING REFERENDUM IN HOME-RULE MUNICIPALITY. (a) Notwithstanding other requirements of this subchapter, the voters of a home-rule municipality may repeal the municipality's zoning regulations adopted under this subchapter by either:

(1) a charter election conducted under law; or

(2) on the initial adoption of zoning regulations by a municipality, by use of any referendum process that is authorized under the charter of the municipality for public protest of the adoption of an ordinance.

(b) Notwithstanding any procedural or other requirements of this chapter to the contrary, the governing body of a home-rule municipality may upon its own motion submit the repeal of the municipality's zoning regulations, as adopted under this chapter, in their entirety to the electors by use of any process that is authorized under the charter of the municipality for a popular vote on the rejection or repeal of ordinances in general.

(c) The provision of this chapter shall not be construed to prohibit the adoption or application of any charter provision of a home-rule municipality that requires a waiting period prior to the adoption of zoning regulations or the submission of the initial adoption of zoning regulations to a binding referendum election, or both, provided that all procedural requirements of this chapter for the adoption of the zoning regulation are otherwise complied with.

(d) Unless otherwise provided by charter, a governing body of a municipality may adopt a zoning ordinance and condition its taking effect upon the ordinance receiving the approval of the electors at an election held for that purpose.

(e) The provisions of this section may only be utilized for the repeal of a municipality's zoning regulations in their entirety or for determinations of whether a municipality should initially adopt zoning regulations, except the governing body of a municipality may amend, modify, or repeal a zoning ordinance adopted, approved or ratified at an election conducted pursuant to this section.

(f) The provision of this section shall not authorize the repeal of an ordinance approving land use regulations adopted under the provisions of Chapter 211, Local Government Code, by a board of directors of a reinvestment zone under the authority of Section 311.010(c), Tax Code.

SECTION 5. (a) This Act takes effect September 1, 1993, except that Section 4 takes effect immediately.

(b) The provision of Section 3 of this Act apply only to a case filed with a board of adjustment on or after the effective date of this Act.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three separate days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 1

Amend C.S.S.B. 506 as follows:

On page 4, line 13 after "(d)" delete "Unless otherwise provided by charter." and insert "Notwithstanding any charter provision to the contrary."

On page 5, beginning on line 2, after "1993" delete the following: ", except that Section 4 takes effect immediately"

The amendments were read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendments to S.B. 506 by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 991

Senator Harris of Dallas called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 991 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on H.B. 991 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris of Dallas, Chair; Henderson, Carriker, Shelley, and Patterson.

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

S.C.R. 85 by LucioInternational Relations,
Trade, and Technology

Encouraging the Honorable Ann Richards, Governor of Texas, to write to the United States Secretary of State and the Secretary of Interior asking for the earliest possible resolution of the consultation process going on between the International Boundary and Water Commission and the United States Fish and Wildlife Service.

S.B. 1467 by Armbrister

Intergovernmental Relations

Relating to validation of all acts, resolutions, orders, instruments, obligations and proceedings of hospital development corporations.

S.B. 1468 by Shelley

Education

Relating to performance of students on the secondary exit level assessment instrument and the issuance of diplomas.

S.B. 1469 by Shelley

Natural Resources

Relating to the sale, lease, and development of state-owned oil, gas, and other minerals.

S.B. 1470 by Madla

Health and Human Services

Relating to the provision of certain services to elderly persons by the Texas Department on Aging and the Texas Department of Human Services.

S.B. 1471 by Harris of Tarrant

Jurisprudence

Amending Sections 84.005, 84.006 and subsection (g) of Section 84.007, Chapter 84, Title 4 Civil Practice and Remedies Code.

S.B. 1472 by Montford

Health and Human Services

Relating to the authority of the Lubbock County Hospital District to render primary care, emergency services, preventive medicine services, and other health related services.

S.B. 1473 by Montford

Finance

Relating to appropriations for payment of certain claims against state agencies.

S.B. 1474 by Haley

Jurisprudence

Relating to the name of the County Court at Law of Angelina County.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

H.B. 165 to Committee on Finance.

H.B. 245 to Committee on Jurisprudence.

H.B. 327 to Committee on Natural Resources.

H.B. 357 to Committee on Jurisprudence.

H.B. 455 to Committee on Finance.

H.B. 515 to Committee on Education.

H.B. 637 to Committee on Criminal Justice.

H.B. 687 to Committee on Intergovernmental Relations.

H.B. 709 to Committee on State Affairs.

H.B. 986 to Committee on Education.

H.B. 1016 to Committee on Finance.
H.B. 1019 to Committee on Education.
H.B. 1052 to Committee on Criminal Justice.
H.B. 1056 to Committee on Criminal Justice.
H.B. 1088 to Committee on Criminal Justice.
H.B. 1107 to Committee on Jurisprudence.
H.B. 1138 to Committee on Intergovernmental Relations.
H.B. 1206 to Committee on Health and Human Services.
H.B. 1252 to Committee on Jurisprudence.
H.B. 1269 to Committee on Natural Resources.
H.B. 1307 to Committee on Intergovernmental Relations.
H.B. 1312 to Committee on Intergovernmental Relations.
H.B. 1462 to Committee on Health and Human Services.
H.B. 1483 to Committee on Health and Human Services.
H.B. 1500 to Committee on Education.
H.B. 1501 to Committee on Finance.
H.B. 1502 to Committee on Health and Human Services.
H.B. 1503 to Committee on Health and Human Services.
H.B. 1568 to Committee on Economic Development.
H.B. 1590 to Committee on State Affairs.
H.B. 1595 to Committee on Finance.
H.B. 1622 to Committee on Jurisprudence.
H.B. 1656 to Committee on State Affairs.
H.B. 1657 to Committee on State Affairs.
H.B. 1674 to Committee on Economic Development.
H.B. 1679 to Committee on Natural Resources.
H.B. 1712 to Committee on Health and Human Services.
H.B. 1735 to Committee on Intergovernmental Relations.
H.B. 1776 to Committee on Criminal Justice.
H.B. 1808 to Committee on Criminal Justice.
H.B. 1818 to Committee on Natural Resources.
H.B. 1824 to Committee on Intergovernmental Relations.
H.B. 1852 to Committee on State Affairs.
H.B. 1876 to Committee on Jurisprudence.
H.B. 1877 to Committee on Natural Resources.
H.B. 1895 to Committee on State Affairs.
H.B. 1897 to Committee on State Affairs.
H.B. 1898 to Committee on State Affairs.
H.B. 1918 to Committee on Jurisprudence.
H.B. 1937 to Committee on Natural Resources.
H.B. 1938 to Committee on Natural Resources.
H.B. 1949 to Committee on Intergovernmental Relations.
H.B. 1950 to Committee on Natural Resources.
H.B. 1967 to Committee on Intergovernmental Relations.
H.B. 1972 to Committee on Health and Human Services.
H.B. 1987 to Committee on Jurisprudence.
H.B. 2004 to Committee on Economic Development.
H.B. 2016 to Committee on Natural Resources.
H.B. 2042 to Committee on Jurisprudence.

H.B. 2052 to Committee on Natural Resources.
H.B. 2103 to Committee on Intergovernmental Relations.
H.B. 2111 to Committee on Criminal Justice.
H.B. 2125 to Committee on Intergovernmental Relations.
H.B. 2153 to Committee on Economic Development.
H.B. 2177 to Committee on Natural Resources.
H.B. 2318 to Committee on Natural Resources.
H.B. 2427 to Committee on Administration.
H.B. 2492 to Committee on Natural Resources.
H.B. 2506 to Committee on Jurisprudence.
H.B. 2509 to Committee on Intergovernmental Relations.
H.B. 2511 to Committee on Jurisprudence.
H.B. 2517 to Committee on Economic Development.
H.B. 2590 to Committee on Intergovernmental Relations.
H.B. 2612 to Committee on Natural Resources.
H.B. 2620 to Committee on Natural Resources.
H.B. 2677 to Committee on Natural Resources.
H.B. 2705 to Committee on Natural Resources.
H.B. 2752 to Committee on Finance.
H.B. 2766 to Committee on Criminal Justice.
H.B. 2797 to Committee on Intergovernmental Relations.
H.B. 2800 to Committee on Intergovernmental Relations.
H.B. 2827 to Committee on Jurisprudence.
H.B. 2828 to Committee on Natural Resources.
H.B. 2829 to Committee on Natural Resources.
H.B. 2830 to Committee on Natural Resources.
H.B. 2831 to Committee on Jurisprudence.
H.B. 2833 to Committee on Finance.
H.B. 2842 to Committee on Natural Resources.
H.B. 2849 to Committee on Intergovernmental Relations.
H.B. 2856 to Committee on Criminal Justice.

GUEST PRESENTED

The President introduced to the Senate Mrs. Debbie Montford, wife of Senator Montford.

The Senate welcomed Mrs. Montford.

GUEST PRESENTED

The President introduced to the Senate Supreme Court Justice Lloyd Doggett, former member of the Texas Senate.

The Senate welcomed Justice Doggett.

SENATE BILL 1020 ON SECOND READING

The President laid before the Senate on its passage to engrossment **S.B. 1020**. The bill was read second time and postponed on Tuesday, April 27, 1993, until 11:30 a.m. today.

S.B. 1020, Relating to the application of the open meetings law to certain meetings of governmental bodies.

Question—Shall the bill be passed to engrossment?

The bill was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Montford asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1020 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 1020 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Nelson, Parker, Patterson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Montford, Ratliff, Rosson.

COMMITTEE SUBSTITUTE SENATE BILL 690 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 690, Relating to the regulation of the practice of physical therapy and occupational therapy, including the creation of the Executive Council of Physical Therapy and Occupational Therapy Examiners and the continuation and modification of the Texas Board of Physical Therapy Examiners and The Texas Advisory Board of Occupational Therapy.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 690 as follows:

- (1) On page 6, line 58, delete "physical therapy technician".
- (2) On page 17, lines 40 and 41, delete "licensed physician, dentist, chiropractor, podiatrist, or other licensed health-care personnel" and insert "referring practitioner".
- (3) On page 17, lines 53 and 54, delete "physician, dentist, chiropractor, podiatrist, or other licensed health-care personnel" and insert "referring practitioner".
- (4) On page 19, line 59, after "conducted", add "A facility licensed under Title 4, Subtitle B, Health and Safety Code is exempt from the requirements for registration in this section."

(5) On page 19, line 63, add Subsection (c) to read as follows:

(c) "In accordance with Section 6 of this Act, the rules adopted under this section shall not prohibit a licensed individual from practicing in a facility within the scope of such individual's licensure."

The amendment was read and was adopted by a viva voce vote.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 690, as follows:

Strike Section 2K, page 11, line 9, and Section 3K, page 22, line 34 and insert in lieu thereof the following:

Section 2K. TRAINING AND GUIDELINES FOR MEMBERS OF THE BOARD. (a) The board shall establish a training program for the members of the board.

(b) Before a member of the board may assume the member's duties, the member must complete at least one course of the training program established under this section, and before the member may be confirmed by the senate, the member must pass an examination given in conjunction with the attorney general on subjects described by Subsections (c) (7), (8), and (9) of this section.

(c) A training program established under this section shall provide information to a participant regarding:

(1) the enabling legislation that created the board to which the member is appointed;

(2) the programs operated by the agency;

(3) the role and functions of the agency;

(4) the rules of the agency with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the agency;

(6) the results of the most recent formal audit of the agency;

(7) the requirements of the:

(A) open meetings law, Chapter 271, acts of the 60th Legislature Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments;

(B) open records law, Chapter 424, Acts of the 63rd Legislature Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(C) Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by that state agency or the Texas Ethics Commission.

(d) In developing the training requirements provided for in this section, the board shall consult with the governor's office, the attorney general's office, and the ethics commission.

(e) In the event that another state agency or entity is given the authority to establish the training requirements, the board shall allow that training in lieu of developing its own program.

Section 3K. TRAINING AND GUIDELINES FOR MEMBERS OF THE BOARD. (a) The board shall establish a training program for the members of the board.

(b) Before a member of the board may assume the member's duties, the member must complete at least one course of the training program established under this section, and before the member may be confirmed by the senate, the member must pass an examination given in conjunction with the attorney general on subjects described by Subsections (c) (7), (8), and (9) of this section.

(c) A training program established under this section shall provide information to a participant regarding:

(1) the enabling legislation that created the board to which the member is appointed;

(2) the programs operated by the agency;

(3) the role and functions of the agency;

(4) the rules of the agency with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the agency;

(6) the results of the most recent formal audit of the agency;

(7) the requirements of the:

(A) open meetings law, Chapter 271, acts of the 60th Legislature Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments;

(B) open records law, Chapter 424, Acts of the 63rd Legislature Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(C) Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by that state agency or the Texas Ethics Commission.

(d) In developing the training requirements provided for in this section, the board shall consult with the governor's office, the attorney general's office, and the ethics commission.

(e) In the event that another state agency or entity is given the authority to establish the training requirements, the board shall allow that training in lieu of developing its own program.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTES

Senators Brown, Harris of Tarrant, Harris of Dallas, and Nelson asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 690 by adding the following appropriately numbered section and by renumbering the remaining sections of the bill as appropriate:

SECTION _____. Article 21.52, Insurance Code, is amended by adding Section 4 to read as follows:

Sec. 4. PRACTITIONER AND PRACTICE OF PHYSICAL THERAPY. A practitioner who is selected under Section 3 of this article by a person who is issued, who is a party to, or who is a beneficiary under any health insurance policy delivered, renewed, or issued for delivery in this state by any insurance company, association, or organization to which this article applies may not be denied reimbursement or payment under the policy for the reason that the practitioner performed an act of physical therapy if:

(1) the practitioner performs a service in strict conformity with the applicable laws and regulations relating to the licensure of the practitioner; and

(2) the performance of that service includes the act of physical therapy, as defined by Chapter 836, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512e, Vernon's Texas Civil Statutes), and its subsequent amendments.

The amendment was read.

On motion of Senator Patterson and by unanimous consent, the amendment was withdrawn.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 690 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 690 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time.

On motion of Senator Carriker and by unanimous consent, further consideration of C.S.S.B. 690 was postponed until 1:00 p.m. today.

Question—Shall the bill be finally passed?

(Senator Haley in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1062 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1062, Relating to the continuation and operation of the Texas State Board of Medical Examiners and to the regulation of the practice of medicine, including the practice of acupuncture; providing penalties.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 1062 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 1.03(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by amending Subdivision (6) to read as follows:

(6) "Medical peer review committee" or "professional review body" means a committee of a health-care entity, the governing board of a health-care entity, or the medical staff of a health-care entity, provided the committee or medical staff operates pursuant to written bylaws that have been approved by the policy-making body or the governing board of the health-care entity and authorized to evaluate the quality of medical and health-care services or the competence of physicians, including those functions specified by Section 85.204, Health and Safety Code, and its subsequent amendments. Such a committee includes the employees and agents of the committee, including assistants, investigators, intervenors, attorneys, and any other persons or organizations that serve the committee in any capacity.

SECTION 2. Section 2.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.03. APPOINTMENT TO BOARD. Members of the board shall be appointed by the governor and confirmed by the senate. Any vacancy on the board shall be filled by appointment of the governor. Any appointment made shall be without regard to race, color, disability [~~creed~~], sex, religion, age, or national origin, except that a person younger than 18 years of age is not eligible for appointment.

SECTION 3. Section 2.04, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.04. REMOVAL FROM OFFICE. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Sections 2.05(a), (b), (c), (d), and (e) of this Act;

(2) does not maintain during service on the board the qualifications required by Sections 2.05(a), (b), (c), (d), and (e) of this Act;

(3) violates a prohibition established by Section 2.05(f), (g), (h), (i), or (k) of this Act;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year;

~~during a member's service on the board, the member fails to meet the qualifications set forth in this Act for members of the board. The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed].~~

~~(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists [Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement is grounds for removal of the member from the board and the removal creates a vacancy on the board].~~

~~(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the president of the board of the ground. The president shall then notify the governor that a potential ground for removal exists.~~

SECTION 4. Section 2.05, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (d), (g), (h), and (i) and adding Subsections (j), (k), and (l) to read as follows:

(b) ~~Seven~~ **Nine** members of the board must:

(1) be learned and eminent physicians licensed to practice medicine within this state for at least three years prior to appointment and be graduates of a reputable medical school or college with a degree of doctor of medicine (M.D.); and

(2) have been actively engaged in the practice of medicine for at least five years immediately preceding their appointment.

(d) ~~Five~~ **Three** members of the board must be public representatives who are not licensed to practice medicine, who are not financially involved in any organization subject to the regulation of the board, and who are not providers of health care. "Provider of health care" means:

(1) an individual who is a direct provider of health care (including but not limited to a dentist, registered nurse, licensed vocational nurse, chiropractor, podiatrist, physician assistant, psychologist, athletic trainer, physical therapist, social psychotherapist, pharmacist, optometrist, hospital administrator, or nursing home administrator) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including but not limited to hospitals, long-term care facilities, out-patient facilities, and health maintenance organizations) in which such care is provided and, when required by law or otherwise, the individual has received professional or other training in the provision of such care or in such administration and is licensed or certified or holds himself out for such provision or administration;

(2) one who is an indirect provider of health care in that the individual holds a fiduciary position with or has a fiduciary interest in an entity described below in this subdivision; for purposes of this subdivision, a fiduciary position or interest as applied to any entity means a position or interest with respect to such entity affected with the character of a trust, including members of boards of directors and officers, majority shareholders, or agents, and receivers (either directly or through their

spouses) of more than one-tenth of their annual income from any one or combination of fees or other compensation for research into or instruction in the provision of health-care entities (or associations or organizations composed of such entities) engaged (or comprised of individuals who are engaged) in the provision of health care or in the provision of health care and entities (or associations or organizations composed of such entities engaged in producing drugs or other such articles);

(3) one who is a member of the immediate family of an individual described in this subsection; for purposes of this subsection "immediate family" as applied to any individual includes only his parents, spouse, children, brothers, and sisters who reside in the same household;

(4) one who is engaged in or employed by an entity issuing any policy or contract of individual or group health insurance or hospital or medical service benefits; or

(5) one who is employed by, on the board of directors of, or holds elective office by or under the authority of any unit of federal, state, or local government or any organization that receives a significant part of its funding from any such unit of federal, state, or local government.

(g) An officer, employee, or paid consultant of a Texas trade or professional association in the field of health care may not be a member or employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(h) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade or professional association in the field of health care may not be a board member and may not be a board employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(i) For the purposes of this section, a "Texas trade or professional association" is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(j) A person may not serve as a member of the board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the board [A person required to register as a lobbyist under Chapter 305, Government Code, by virtue of his activities on behalf of a trade or professional association in the regulated profession may not act as a member of the board].

(k) [(h)] A person is ineligible for appointment to the board if, at the time of appointment, the person is a stockholder, paid full-time faculty member, or a member of the board of trustees of a medical school.

(l) [(i)] All board members must take the official oath.

SECTION 5. Section 2.07(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Not later than December after each regular session of the legislature ~~[At the first meeting of the board after each biennial appointment]~~, the governor shall appoint from the members of the board a president and the board shall elect from its members a ~~[president,]~~ vice-president, secretary-treasurer, and other officers as are required, in the opinion of the board, to carry out its duties.

SECTION 6. Section 2.09, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (c), (g), (k), (s), and (u) and adding Subsections (b-1), (x), (y), (z), and (aa) to read as follows:

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board. The board shall appoint an executive director who shall be its chief executive and administrative officer, who shall be charged with the primary responsibility of administering, enforcing, and carrying out the provisions of the Medical Practice Act under the control and supervision and at the direction of the board. The executive director shall hold such position at the pleasure of board and may be discharged at any time. The board may act under its rules through the executive director, an executive committee, or other committee, unless otherwise specified in this Act. The executive committee shall be the president, vice-president, and secretary-treasurer except where otherwise provided in this Act. ~~Any duty of the secretary-treasurer in this Act may be performed by the executive director within the discretion of the board. Any reference to secretary-treasurer shall have the same meaning as executive director when so designated by the board].~~

(b-1) The executive director may employ a chief operating officer who shall be primarily responsible for administering, implementing, and monitoring systems and necessary measures to promote quality and efficiency of ongoing board operations and other duties as may be assigned by the executive director. If the board appoints an executive director who is not a physician licensed to practice in this state, the executive director shall appoint a medical director who is a physician licensed to practice in this state and who shall be primarily responsible for implementing and maintaining policies, systems, and measures regarding clinical and professional issues and determinations. The chief operating officer or medical director shall act under the control and supervision and at the direction of the executive director.

(c) The board may make rules and establish fees as are reasonable relating to the granting and extension of expiration dates of temporary licenses and the placing of licensees on inactive status. The board shall by rule set time limits on the periods for which licensees may hold temporary licenses or maintain inactive status.

(g) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the board ~~[A person who is required personally to register as a lobbyist under Chapter 305, Government Code, representing physicians, health-care entities, or~~

~~health-care-related professions, may not be employed by the board in any capacity].~~

(k) ~~The board [shall establish] by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act. The fees set by the board may be adjusted so that the total fees collected shall be sufficient to meet the expenses of administering this Act. The board may not set a fee for an amount less than the amount of that fee on September 1, 1993 [a reasonable charge for those fees not specifically determined but authorized by this Act]. The board may not waive collection of any fee or penalty. Except as otherwise provided by this Act, the [The] board shall deposit [place] all fees received under authority of this Act, not otherwise specified, in the state treasury to the credit of a special account in the general revenue fund. The special account may be used only to cover the costs of administering and enforcing this Act [into the medical licensing fund]. The board is authorized and shall by annual budget determine the manner of handling the funds and the purpose, consistent with this Act, for which the same may be used. The special account is exempt from Section 403.094(h), Government Code, and its subsequent amendments [The budgeted expenses authorized by the board shall not be a charge upon the general revenue of the state nor paid from the general revenue].~~

(s)(1) ~~The board shall prepare information of public [consumer] interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.~~

(2) ~~The board by rule shall establish methods by which the public and licensees of the board are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notification:~~

~~(A) on each registration form, application, or written contract for services of an individual or entity regulated under this Act;~~

~~(B) on a sign prominently displayed in the place of business of each individual or entity regulated under this Act; or~~

~~(C) in a bill for services provided by an individual or entity regulated under this Act.~~

(3) ~~The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law [regulatory functions of the board and describing the board's procedures by which consumer complaints are filed with and resolved by the board]. On written request the board shall make information available to the general public for a reasonable fee to cover expenses and appropriate state agencies including a summary of any previous disciplinary orders by the board against a specific physician licensed in this state, the date of the order, and the current status of the order. The board shall establish an eight-hour toll-free telephone number to make the information immediately available to any caller if the board is not required to establish a toll-free telephone number under other state law.~~

(u) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all nonentry level positions concurrently with any public posting [board shall cause to be developed an intraagency career ladder program, one part of which shall be the intraagency posting of each job opening with the board in a nonentry-level position. The intraagency posting shall be made at least 10 days before any public posting].

(x) Each board member shall comply with the board member training requirements established by any other state agency that is given authority to establish the requirements for the board.

(y) The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(z) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(aa) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

SECTION 7. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 2.10 to read as follows:

Sec. 2.10. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with requirements of the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments;

(2) a comprehensive analysis of the board's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) of this section must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with requirements of the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this

section. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 8. Sections 3.01(a), (b), (c), (f), (h), and (i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) All persons now lawfully qualified to practice medicine in this state, or who are hereafter licensed for the practice of medicine by the board, shall be registered as practitioners with the board on or before the first day of January and thereafter shall register in like manner annually, on or before the first day of January of each succeeding year. Each person so registered with the board shall pay, in connection with each annual registration and for the receipt hereinafter provided for, a fee established by the board which fee shall accompany the application of each person for registration. The payment shall be made to the board. Every person so registered shall file with the board a written application for annual registration, setting forth his name and mailing address, the place or places where the applicant is engaged in the practice of medicine, and other necessary information prescribed by the board. If the person is licensed for the practice of medicine by another state, the District of Columbia, a territory of the United States, Canada, any other country, or the uniformed services of the United States, the application must include a description of any investigations the person knows are in progress and of any sanctions imposed by or disciplinary matters pending in the state, district, territory, country, or service.

(b) Physicians not otherwise licensed by the board who are participating in graduate medical education training programs approved by the board may be issued institutional permits as provided by rules of the board. A reasonable fee shall be charged and deposited into the special account established by Section 2.09(k) of this Act ~~[medical registration fund]~~. This permit does not authorize the performance of medical acts except as the acts are performed as a part of graduate medical education programs and under the supervision of a licensed practitioner of medicine.

(c)(1) A person may renew an unexpired license by paying to the board on or before the expiration date of the license the required renewal fee.

(2) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license.

(3) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(4) If a person's license has been expired for one year, it is considered to have been canceled, and the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(5) The board may renew without examination an expired license of a person who was licensed in this state, moved to another state, and is

currently licensed and has been in practice in the other state for not more than two years preceding application. The person must pay to the board a fee that is equal to the examination fee for the license. [Failure of any licensee to pay the annual license renewal fee on or before the 90th day after the date it is due automatically cancels his licensure. Any licensee whose license has been canceled because of failure to pay the annual license renewal fee may secure reinstatement of his license at any time within that license year upon payment of the delinquent fee together with a penalty in an amount as the board may determine to be reasonable. After expiration of the license year for which the license fee was not paid, no license shall be reinstated except upon application and satisfaction of other conditions as the board may establish and payment of delinquent fees and a penalty to be assessed by the board.]

(f) ~~[In performing its duties as provided in this Act, the board may act through the secretary-treasurer of the board. The secretary-treasurer is entitled to a salary to be fixed by the legislature in its General Appropriations Act for the performance of duties under this Act.]~~ The executive director [secretary-treasurer] of the board shall file a surety bond with the board. The bond shall be in an amount not less than \$10,000, be in compliance with the insurance laws of the state, and be payable to the state for the use of the state if the executive director [secretary-treasurer] does not faithfully discharge the duties of the office. The board shall pay the premium on the bond. [The salary shall be paid out of said medical registration fund and shall not be in any way a charge upon the general revenue of the state.]

(h) ~~The [secretary-treasurer or the] executive director shall review each application for licensure by examination or reciprocity and shall recommend to the board all applicants eligible for licensure. The [secretary-treasurer or the] executive director also shall report to the board the names of all applicants determined to be ineligible for licensure, together with the reasons for each recommendation. An applicant deemed ineligible for licensure by the [secretary-treasurer or the] executive director may request review of such recommendation by a committee of the board within 20 days of receipt of such notice, and the [secretary-treasurer or the] executive director may refer any application to said committee for a recommendation concerning eligibility. If the committee finds the applicant ineligible for licensure, such recommendation, together with the reasons therefor, shall be submitted to the board unless the applicant requests a [an appellate] hearing [before a hearing examiner appointed by the board] within 20 days of receipt of notice of the committee's determination. The hearing shall be before an administrative law judge of the State Office of Administrative Hearings and shall comply with the Administrative Procedure Act and its subsequent amendments and the rules of the State Office of Administrative Hearings and the board. The committee may refer any application for determination of eligibility to the full board. The board shall, after receiving the administrative law judge's proposed findings of fact and conclusions of law, determine the eligibility of the applicant for licensure [an appellate hearing on its own motion. The board may elect to hear any appeal in lieu of proceedings before a hearing~~

~~examiner, and it shall adopt, modify, or reject each decision made by a hearing examiner. The board also shall adopt, modify, or reject each recommendation of ineligibility made by the secretary-treasurer or the executive director or by the committee, unless the applicant has requested a timely review of the recommendation. Such action by the board shall constitute a final administrative decision concerning licensure. Any hearing before the board or before a hearing examiner under this subsection becomes a contested case under the Administrative Procedure Act]. A physician whose application for licensure is denied by the board shall receive a written statement[~~upon request,~~] containing the reasons for the board's action. All reports received or gathered by the board on each applicant are confidential and are not subject to disclosure under the Open Records Law. The board may disclose such reports to appropriate licensing authorities in other states [upon request].~~

~~(i) At least 30 days before the expiration of a person's license, the board shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the board [The board must notify each delinquent licensee of his impending license cancellation by registered or certified mail sent to the licensee's address listed with the board not less than 30 days prior to the cancellation. This requirement shall be waived when the licensee has requested in writing that his or her license be canceled].~~

SECTION 9. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 3.025 to read as follows:

Sec. 3.025. CONTINUING MEDICAL EDUCATION. (a) The board by rule shall adopt, monitor, and enforce a reporting program for continuing medical education of licensees. The board shall adopt and administer rules:

(1) requiring the number of hours of continuing medical education the board determines appropriate as a prerequisite to the annual registration of a licensee under this Act;

(2) requiring at least one-half of the hours of continuing medical education required under Subdivision (1) of this subsection to be approved by the board after taking into account the standards of the American Medical Association for its Physician's Recognition Award, the Council on Medical Specialty Societies, or the American Osteopathic Association and permitting the remaining hours to be composed of self-study or equivalent self-directed continuing medical education according to guidelines determined by the board; and

(3) adopting a process to assess a licensee's participation in continuing medical education courses.

(b) A licensee shall be presumed to have complied with this section if in the preceding 36 months the licensee becomes board certified or recertified in a medical specialty and the medical specialty program takes into consideration the standards of the American Board of Medical Specialties, the American Medical Association, the Advisory Board for Osteopathic Specialists and Boards of Certification, or the American Osteopathic Association.

(c) The board may temporarily exempt a licensee from the requirement for continuing medical education for:

(1) catastrophic illness;

(2) military service of longer than one year's duration outside the state;

(3) medical practice and residence of longer than one year's duration outside the United States; or

(4) good cause shown on written application of the licensee that gives satisfactory evidence to the board that the licensee is unable to comply with the requirement for continuing medical education.

(d) A temporary exemption under Subsection (c) of this section may not exceed one year but may be renewed annually.

(e) Subsection (a) of this section does not apply to a licensee who is retired and has been exempted by rule from paying the annual registration fee.

(f) This section does not prevent the board from taking disciplinary action with respect to a licensee or an applicant for a license by requiring additional hours of continuing medical education or of specific course subjects.

SECTION 10. Section 3.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by amending Subsections (a)-(f) to read as follows:

(a) The board, at its sole discretion and upon payment by an applicant of a fee prescribed by the board under this Act, may grant a license to practice medicine to any [reputable] physician who is a graduate of an acceptable [a-reputable] medical college as determined by the board and who:

~~[(1)] is a licensee of another state or Canadian province having requirements for physician registration and practice substantially equivalent to those established by the laws of this state; or~~

~~[(2)] is qualified by an examination for a certificate to practice medicine under a commission in the uniformed services of the United States].~~

(b) An application for a license under this section must be in writing and upon a form prescribed by the board. The application must be accompanied by:

(1) a diploma or photograph of a diploma awarded to the applicant by an acceptable [a-reputable] medical college and a certified transcript showing courses and grades ~~[or a certificate, license, or commission issued to the applicant by the Medical Corps of the uniformed services of the United States];~~

(2) a license or a certified copy of a license to practice medicine lawfully issued to the applicant~~[-on examination,]~~ by some other state or a Canadian province that requires in its examination the same general degree of fitness required by this state and that grants the same reciprocal privileges to persons licensed by the board; ~~[or]~~

(3) a certification made by ~~[an executive officer of the uniformed services of the United States,]~~ the president or secretary of the board that issued the license~~[-]~~ or a duly constituted registration office of the state

or Canadian province that issued the certificate or license, reciting that the accompanying certificate or license has not been canceled, suspended, or revoked ~~[except by honorable discharge from the Medical Corps of the uniformed services of the United States]~~ and reciting that the statement of the qualifications made in the application for medical license in Texas is true and correct; and

(4) evidence of a passing grade on an examination required by the board.

(c) Applicants for a license under this section must subscribe to an oath in writing before an officer authorized by law to administer oaths. The written oath must be a part of the application. The application must;

(1) state that:

(A) [(1)] the license, certificate, or authority under which the applicant has most recently practiced medicine in the state or Canadian province from which the applicant is transferring to this state [removed] or in the uniformed service in which the applicant served is [was at the time of the removal or completion of service] in full force and not restricted, canceled, suspended, or revoked;

(B) [(2)] the applicant is the identical person to whom the certificate or license or commission and the diploma were issued;

(C) [(3)] no proceeding has been instituted against the applicant for the restriction, cancellation, suspension, or revocation of the certificate, license, or authority to practice medicine in the state, Canadian province, or uniformed service of the United States in which it was issued; and

(D) [(4)] no prosecution is pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony;

(2) include a description of any sanctions imposed by or disciplinary matters pending in the state or Canadian province in which the applicant was or is licensed or certified to practice medicine; and

(3) include evidence of postgraduate training required by the board.

(d) An applicant for a license under this section must [A "reputable physician" means one who would] be eligible for examination by the board. [A "reputable medical school or college" means a medical school or college that was approved by the board at the time the applicant's degree was conferred.]

(e) In addition to other licensure requirements, the board may require by rule and regulation that an applicant who is a licensee of another state or Canadian province and who is a graduate [graduates] of a medical school [schools] located outside of the United States and Canada, or the school itself [schools themselves], provide additional information to the board concerning the medical school attended prior to approval of the applicant.

(f) The board may refuse to issue a license to an applicant who is a licensee of another state or Canadian province and who graduated from a medical school outside of the United States and Canada if it finds that the

applicant does not possess the requisite qualifications to provide the same standard of medical care as provided by a licensed physician in this state.

SECTION 11. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 3.0305 to read as follows:

Sec. 3.0305. TEMPORARY LICENSE FOR OUT-OF-STATE PRACTITIONERS. (a) On application, the board shall grant a temporary license to practice medicine. An applicant for a temporary license under this section must:

(1) have a current, active, and unrestricted license, without any pending disciplinary matters, as a physician in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this Act;

(2) have passed a national or other examination recognized by the board relating to the practice of medicine; and

(3) be sponsored by a person licensed by the board under this Act with whom the temporary license holder may practice under this section.

(b) An applicant for a temporary license may be excused from the requirement of Subsection (a)(3) of this section if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) A temporary license is valid until the date the board approves or denies the temporary license holder's application for a license. The board shall issue a license under this Act to the holder of a temporary license under this section if:

(1) the temporary license holder passes the examination required by Section 3.05 of this Act;

(2) the board verifies that the temporary license holder has satisfied the academic and experience requirements for a license under this Act; and

(3) the temporary license holder has satisfied any other license requirements under this Act.

(d) The board must assemble the documents and information necessary to process a temporary license holder's application for a license not later than the 90th day after the date the temporary license is issued and complete the processing of the application not later than the 90th day after the date the documents and information are assembled. If by the 180th day after the date the temporary license is issued the board has not completed the processing of the application, the board shall review the application to determine the cause of the delay.

SECTION 12. Section 3.04, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.04. QUALIFICATION OF LICENSEE. (a) An applicant, to be eligible for the examination and issuance of a license, must present satisfactory proof to the board that the applicant:

(1) is at least 21 years of age;

(2) is of good professional character;

(3) has completed 60 semester hours of college courses other than in medical school, which courses would be acceptable, at the time of

completion, to The University of Texas for credit on a bachelor of arts degree or a bachelor of science degree; and

(4) is a graduate of an acceptable [a] medical school or college that was approved by the board at the time the degree was conferred[;] and has completed a one-year program of graduate medical training approved by the board.

~~(b) The [(5) has successfully completed a one-year program of graduate medical training approved by the board. In addition to other licensure requirements, the board may require by rule and regulation that graduates of medical schools located outside the United States and Canada comply with other requirements that the board considers appropriate, including but not limited to additional graduate medical training in the United States, except those who qualify for licensure in Section 5.04 of this Act. However, the]~~ applicant shall be eligible for examination prior to complying with the graduate training requirement of Subsection (a)(4) [Subdivision (5) of Subsection (a)] of this section but shall not be eligible for the issuance of an unrestricted license until the requirements of Subsection (a) of this section [this subsection] have been satisfied.

~~(c) [(b)]~~ Applications for examination must be made in writing, verified by affidavit, filed with the board on forms prescribed by the board, and accompanied by documents and a fee as the board determines to be reasonable.

~~(d) To be recognized by the board for the purposes of this subchapter, all allopathic or osteopathic medical education instruction taught in the United States must be accredited by an accrediting body officially recognized by the United States Department of Education and the Council on Postsecondary Accreditation as the accrediting body for medical education leading to the doctor of medicine degree or the doctor of osteopathy degree in the United States.~~

~~(e) The requirements for eligibility for licensure of a graduate of an unapproved foreign medical school are set out in Section 5.035 of this Act, and the requirements for eligibility for licensure of a person who has completed all of the didactic work of a foreign medical school but has not graduated from the school (Fifth Pathway Program) are set out in Section 5.04 of this Act.~~

SECTION 13. Sections 3.05(a), (c), and (e), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) All examinations for license to practice medicine shall be conducted in writing in the English language and in a manner as to be entirely fair and impartial to all individuals and to every school or system of medicine. ~~[All applicants shall be known to the examiners only by numbers, without names or other method of identification on examination papers by which members of the board may be able to identify the applicants or examinees, until after the general averages of the examinees' numbers in the class have been determined and license granted or refused.]~~ Examinations shall be conducted on and cover those subjects generally taught by medical schools, a knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine or

doctor of osteopathy conferred by schools or colleges of medicine approved by the board, and the examinations shall also be conducted on and cover the subject of medical jurisprudence. Examinations shall be prepared by a national testing service or prepared by the board and validated by qualified independent testing professionals. On satisfactory examination conducted as required by this Act under rules of the board, applicants ~~may~~ ~~[shall]~~ be granted licenses to practice medicine. All questions and answers, with the grades attached, shall be preserved for one year in the executive office of the board or such other repository as the board by rule may direct. All applicants examined at the same time shall be given identical questions. All certificates shall be attested by the seal of the board. The board in its discretion may give the examination for license in two or more parts.

(c) All applicants for license to practice medicine in this state not otherwise licensed under the provisions of law must successfully pass a uniform ~~[an]~~ examination approved by the board as determined by rule. The board is authorized to adopt and enforce all rules of procedure not inconsistent with statutory requirements. All applicants shall be given due notice of the date and place of the examination~~[, provided that the partial examinations provided for in this Act shall not be disturbed by this section].~~ If any applicant, because of failure to pass the required examination, is refused a license, the applicant, at a time as the board may fix, shall be permitted to take a subsequent examination not more than two additional times ~~[upon any subjects required in the original examination]~~ as the board may prescribe on the payment of a fee as the board may determine to be reasonable. In the event satisfactory grades shall be made on the subjects prescribed and taken on the reexamination, the board may grant the applicant a license to practice medicine. The board shall determine the credit to be given examinees on answers turned in on the subjects of complete and partial examination, and its decision is final.

(e) Within 90 ~~[30]~~ days after the day on which an examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination not later than the 30th day ~~[within four weeks]~~ after the date the board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination, the board shall notify the examinee of the reason for the delay before the 90th day.

SECTION 14. Section 3.06(d)(5), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Paragraph (G) to read as follows:

(G) An advertisement for a site serving a medically underserved population shall include the name and business address of the supervising physician for the site.

SECTION 15. Section 3.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.08. GROUNDS FOR REFUSAL TO ADMIT PERSONS TO EXAMINATION AND TO ISSUE LICENSE AND RENEWAL LICENSE

And For Disciplinary Action. The board may refuse to admit persons to its examinations and to issue a license to practice medicine to any person **and may take disciplinary action against any person** for any of the following reasons:

(1) submission of a false or misleading statement, document, or certificate to the board in an application for examination or licensure; the presentation to the board of any license, certificate, or diploma that was illegally or fraudulently obtained; the practice of fraud or deception in taking or passing an examination;

(2) conviction of a crime of the grade of a felony or a crime of a lesser degree that involves moral turpitude;

(3) intemperate use of alcohol or drugs that, in the opinion of the board, could endanger the lives of patients;

(4) unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. Unprofessional or dishonorable conduct likely to deceive or defraud the public includes but is not limited to the following acts:

(A) committing any act that is in violation of the laws of the State of Texas if the act is connected with the physician's practice of medicine. A complaint, indictment, or conviction of a law violation is not necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine is sufficient for action by the board under this section;

(B) failing to keep complete and accurate records of purchases and disposals of drugs listed in Chapter 481, Health and Safety Code, or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513). A physician shall keep records of his purchases and disposals of these drugs to include without limitation the date of purchase, the sale or disposal of the drugs by the physician, the name and address of the person receiving the drugs, and the reason for the disposing or dispensing of the drugs to the person. A failure to keep the records for a reasonable time is grounds for revoking, canceling, suspending, or probating the license of any practitioner of medicine. The board or its representative may enter and inspect a physician's place(s) of practice during reasonable business hours for the purpose of verifying the correctness of these records and of taking inventory of the prescription drugs on hand;

(C) writing prescriptions for or dispensing to a person known to be **an abuser** ~~[a habitual user]~~ of narcotic drugs, controlled substances, or dangerous drugs or to a person who the physician should have known was **an abuser** ~~[a habitual user]~~ of the narcotic drugs, controlled substances, or dangerous drugs. This provision does not apply to those persons;

(i) being treated by the physician for their narcotic use after the physician notifies the board in writing of the name and address of the person being so treated; or

(ii) **who the physician is treating for intractable pain under the Intractable Pain Treatment Act (Article 4495c, Revised Statutes) and its subsequent amendments;**

(D) writing false or fictitious prescriptions for dangerous drugs as defined by Chapter 483, Health and Safety Code, of controlled substances scheduled in the Texas Controlled Substances Act (Chapter 481, Health and Safety Code) [~~(Article 4476-15, Vernon's Texas Civil Statutes)~~], or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513);

(E) prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed;

(F) prescribing, administering, or dispensing in a manner not consistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code, controlled substances scheduled in the Texas Controlled Substances Act (Chapter 481, Health and Safety Code) [~~(Article 4476-15, Vernon's Texas Civil Statutes)~~], or controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513);

(G) persistently or [~~and~~] flagrantly overcharging or overtreating patients;

(H) failing to supervise adequately the activities of those acting under the supervision of the physician; or

(I) delegating professional medical responsibility or acts to a person if the delegating physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts;

(5) violation or attempted violation, direct or indirect, of any valid rules issued under this Act, either as a principal, accessory, or accomplice;

(6) use of any advertising statement that is false, misleading, or deceptive;

(7) advertising professional superiority or the performance of professional service in a superior manner if the advertising is not readily subject to verification;

(8) purchase, sale, barter, or use or any offer to purchase, sell, barter, or use any medical degree, license, certificate, diploma, or transcript of license, certificate, or diploma in or incident to an application to the board for a license to practice medicine;

(9) altering, with fraudulent intent, any medical license, certificate, diploma, or transcript of a medical license, certificate, or diploma;

(10) using any medical license, certificate, diploma, or transcript of a medical license, certificate, or diploma that has been fraudulently purchased, issued, or counterfeited or that has been materially altered;

(11) impersonating or acting as proxy for another in any examination required by this Act for a medical license; or engaging in conduct which subverts or attempts to subvert any examination process required by this Act for a medical license. Conduct which subverts or attempts to subvert the medical licensing examination process includes, but is not limited to:

(A) conduct which violates the security of the examination materials, as prescribed by board rules;

(B) conduct which violates the standard of test administration, as prescribed by board rules; or

(C) conduct which violates the accreditation process, as prescribed by board rules;

(12) impersonating a licensed practitioner or permitting or allowing another to use his license or certificate to practice medicine in this state for the purpose of diagnosing, treating, or offering to treat sick, injured, or afflicted human beings;

(13) employing, directly or indirectly, any person whose license to practice medicine has been suspended, canceled, or revoked or association in the practice of medicine with any person or persons whose license to practice medicine has been suspended, canceled, or revoked or any person who has been convicted of the unlawful practice of medicine in Texas or elsewhere;

(14) performing or procuring a criminal abortion or aiding or abetting in the procuring of a criminal abortion or attempting to perform or procure a criminal abortion or attempting to aid or abet the performance or procurement of a criminal abortion;

(15) aiding or abetting, directly or indirectly, the practice of medicine by any person, partnership, association, or corporation not duly licensed to practice medicine by the board;

(16) inability to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subdivision the board shall, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by the board. If the physician refuses to submit to the examination, the board shall issue an order requiring the physician to show cause why he should not be required to submit to the examination and shall schedule a hearing on the order within 30 days after notice is served on the physician. The physician shall be notified by either personal service or certified mail with return receipt requested. At the hearing, the physician and his attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. An appeal from the decision of the board shall be taken under the Administrative Procedure Act;

(17) judgment by a court of competent jurisdiction that a person licensed to practice medicine is of unsound mind;

(18) professional failure to practice medicine in an acceptable manner consistent with public health and welfare;

(19) being removed, suspended, or having disciplinary action taken by his peers in any professional medical association or society, whether the association or society is local, regional, state, or national in scope, or being disciplined by a licensed hospital or medical staff of a hospital,

including removal, suspension, limitation of hospital privileges, or other disciplinary action, if that action in the opinion of the board was based on unprofessional conduct or professional incompetence that was likely to harm the public, provided that the board finds that the actions were appropriate and reasonably supported by evidence submitted to it. The action does not constitute state action on the part of the association, society, or hospital medical staff;

(20) repeated or recurring meritorious health-care liability claims that in the opinion of the board evidence professional incompetence likely to injure the public; or

(21) suspension, revocation, ~~or~~ restriction, or other disciplinary action by another state of a license to practice medicine, or disciplinary action by the uniformed services of the United States, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of the state taking the action is conclusive evidence of it.

SECTION 16. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 3.085 to read as follows:

Sec. 3.085. RESTRICTIONS ON BIDDING AND ADVERTISING. (a) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.

(b) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

SECTION 17. Section 3.10, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.10. FEES AND OTHER FUNDS. (a) All annual registration fees collected and other funds received by the board shall be deposited, except as otherwise provided by this Act, [placed in the State Treasury] to the credit of the special account established by Section 2.09(k) of this Act, [medical registration fund. The fees deposited to this special fund shall be credited to the appropriations of the board and may be spent only as provided by the General Appropriations Act, this Act, or other applicable statutes. Money in that fund may be used by the board and under its direction in the enforcement of this Act, the prohibition of the unlawful practice of medicine, the dissemination of information to prevent the violation of the laws, and the prosecution of those who violate the laws. All distributions from the fund may be made only upon written approval of the secretary-treasurer of the board or his designated representative, and the comptroller shall upon requisition of the board from time to time draw warrants upon the State Treasurer for the amounts specified in the requisition.]

~~[(b) The board may not set, charge, collect, receive, or deposit any of the following fees in excess of:~~

[(1) for processing and granting a license by reciprocity to a licensee of another state	\$700
[(2) for processing an application and administration of a partial examination for licensure	\$700
[(3) for processing an application and administration of a complete examination for licensure	\$700
[(4) for processing an application and issuance of a temporary license	\$200
[(5) for processing an application and issuance of a duplicate license	\$200
[(6) for processing an application and issuance of a license of reinstatement after a lapse or cancellation of a license	\$700
[(7) for processing an application and issuance of an annual registration of a licensee	\$200
[(8) for processing and issuance of an institutional permit for interns, residents, and others in approved medical training programs	\$200
[(9) for processing an application and issuance of an endorsement to other state medical boards	\$200
[(10) for processing and issuance of a permit to a physician who supervises a physician assistant	\$200
[(11) for processing and issuance of a permit to a physician who supervises an acupuncturist	\$200.]

~~(b) [(c)] The board may set and collect a sales charge for making copies of any paper of record in the office of the board and for any printed material published by the board. The charges shall be in amounts considered sufficient to reimburse the board for the actual expense.~~

~~(c) [(d)] The financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.~~

~~(d) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act [(e) On or before the first day of January each year, the board shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year].~~

SECTION 18. Section 3.11A, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.11A. Disposition of [Increase in] FEES. (a) This section applies to each [Each] of the following fees [imposed by or under another section of this Act is increased by \$200]:

(1) fee for processing and granting a license by reciprocity to a licensee of another state;

(2) fee for processing an application and administration of a partial examination for licensure;

(3) fee for processing an application and administration of a complete examination for licensure;

(4) fee for processing an application and issuance of a license of reinstatement after a lapse or cancellation of a license; and

(5) fee for processing an application and issuance of an annual registration of a licensee.

(b) Of each fee ~~[increase]~~ collected, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund. This subsection applies to the disposition of the stated portion of each fee ~~[increase]~~ regardless of any other provision of law providing for a different disposition of funds.

SECTION 19. Section 4.01, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.01. GROUNDS FOR CANCELLATION, REVOCATION, SUSPENSION, AND PROBATION OF LICENSE. (a) The board shall, except for good cause shown, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this Act or a rule of the board ~~[Except as provided herein, the board may cancel, revoke, or suspend the license of any practitioner of medicine or impose any other authorized means of discipline upon proof of the violation of this Act in any respect]~~ or for any cause for which the board is authorized to refuse to admit persons to its examination and to issue a license and renewal license, including an initial conviction or the initial finding of the trier of fact of guilt of a felony or misdemeanor involving moral turpitude.

(b) On proof that a practitioner of medicine has been initially convicted of a felony or the initial finding of the trier of fact of guilt of a felony under Chapter 481, Health and Safety Code, Section 485.033, Health and Safety Code, Chapter 483, Health and Safety Code, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513), the board shall suspend the practitioner's license. On the practitioner's final conviction for such a felony offense, the board shall revoke the practitioner's license.

(c) The board shall suspend the license of a practitioner who is serving a prison term in a state or federal penitentiary during his incarceration regardless of the offense.

SECTION 20. Section 4.04, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is redesignated as Section 4.02 and amended to read as follows:

Sec. 4.02 ~~[4.04]~~. COMPLAINT; INVESTIGATION. (a) Any person, including a partnership, association, corporation, or other entity, may file a complaint against a licensee with the board, or the board may file a complaint on its own initiative. The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection shall:

(1) distinguish between categories of complaints;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(b) The board shall keep an information file about each complaint filed with the board. The board's information file shall be kept current and contain a record for each complaint of:

(1) potential witnesses contacted in relation to the complaint;

(2) a summary of findings made at each step of the complaint process;

(3) an explanation of the legal basis and reason for a complaint that is dismissed; and

(4) other relevant information.

(c) If a written complaint is filed with the board that the board has authority to resolve, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an investigation.

(d) The board by rule shall adopt a form to standardize information concerning complaints made to the board. The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(e) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

(f) Except as otherwise provided by this section, all investigations shall be conducted by the board or persons authorized by the board to conduct them. The board may commission investigators as peace officers for the purpose of enforcing this Act. However, investigators of the board so commissioned as peace officers may not carry a firearm or exercise arrest powers. Each complaint against a physician which requires a determination of medical competency shall be reviewed by a board member, consultant, or employee with medical background considered sufficient by the board.

(g) [(b)] Unless it would jeopardize an investigation, the board shall notify the physician that a complaint has been filed and the nature of the complaint. The board shall make a preliminary investigation of the complaint. The first consideration of the board shall be whether the physician constitutes a continuing threat to the public welfare.

(h) The board may, unless precluded by the law or this Act, make a disposition of any complaint or matter relating to this Act, or of any contested case by stipulation, agreed settlement, or consent order. The board shall dispose of a complaint, contested case, or other matter in

writing, and if appropriate, the physician shall sign the writing. An agreed disposition is a disciplinary order for purposes of reporting under this Act and of administrative hearings and proceedings by state and federal regulatory agencies regarding the practice of medicine. An agreed disposition is a public record.

(i) In civil or criminal litigation, an agreed disposition is a settlement agreement under Rule 408, Texas Rules of Civil Evidence, and Rule 408, Texas Rules of Criminal Evidence. This subsection does not apply to a licensee who has previously entered into an agreed disposition with the board of a different disciplinary matter or whose license the board is seeking to revoke.

(j) The board shall adopt such rules as are appropriate to carry out this section [such disposition. Such disposition shall be considered a disciplinary order].

(k) The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified not later than the 14th day after the date the change is made unless the notice would jeopardize an investigation.

(l) The executive director of the board shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

(m) Except in the case of a suspension under Section 4.13 of this Act or in accordance with the terms of an agreement between the board and a licensee, no revocation, suspension, involuntary modification, or disciplinary action relating to a license is effective unless, before board proceedings are instituted:

(1) the board has served notice, in a manner consistent with the requirements for service under Subsection (g) of this section, to the physician of the facts or conduct alleged to warrant the intended action; and

(2) the physician was given an opportunity to show compliance with all requirements of law for the retention of the license either in writing or through personal appearance at an informal meeting with one or more representatives of the board, at the option of the licensee.

(n) If the licensee exercises the option to personally appear at an informal meeting with one or more representatives of the board and the informal meeting is held, the staff of the board and the representatives of the board shall be subject to the ex parte provisions of the Administrative Procedure Act with regard to subsequent contacts with board members and administrative law judges concerning the case.

SECTION 21. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 4.025 to read as follows:

Sec. 4.025. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 13(e), Administrative Procedure Act, and its subsequent amendments; and

(2) informal proceedings held in compliance with Section 18(c), Administrative Procedure Act, and its subsequent amendments.

(b) Rules adopted under this section must provide the complainant and the licensee an opportunity to be heard and must require the presence of the board's legal counsel or a representative of the office of the attorney general to advise the board or board's employees.

SECTION 22. Section 4.02, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is redesignated as Section 4.03 and amended to read as follows:

Sec. 4.03 [4.02]. INITIATION OF CHARGES. (a) Proceedings, unless otherwise specified, under this Act or other applicable law and charges against a licensee may be instituted by a duly authorized representative of the board [on its own initiative or by any person]. Charges must be in writing and on sworn affidavit filed with the records custodian or assistant records custodian of the board detailing the nature of the charges as required by this Act or other applicable law. The president or an authorized [his] designee shall [set a time and place for a hearing and shall] cause a copy of the charges[, together with a notice of the time and place fixed for the hearing] to be served on the respondent or the respondent's counsel of record.

(b) The president or designee shall notify the State Office of Administrative Hearings of a formal complaint.

(c) A formal complaint shall be in writing and shall allege with reasonable certainty the specific act or acts relied on by the agency to constitute a violation of a specific statute or rule. The formal complaint shall be specific enough to enable a person of common understanding to know what is meant by the formal complaint and shall contain a degree of certainty that will give the person who is the subject of the formal complaint notice of the particular act or acts alleged to be a violation of a specific statute or rule.

(d) The board shall adopt reasonable rules to promote discovery by all parties to contested cases.

(e) In this section, "formal complaint" means a written statement made by a credible person under oath that is filed and presented by a representative of the board charging a person with having committed an act or acts that if proven could affect the legal rights or privileges of a licensee or other person under the jurisdiction of the board.

SECTION 23. Section 4.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is redesignated as Section 4.04 and amended to read as follows:

Sec. 4.04 [4.03]. NOTICE. (a) Service of process notifying the respondent of [the time and place of] a hearing about [and the nature of] the charges against the person shall be made in accordance with the requirements of the Administrative Procedure Act and its subsequent amendments [person or by mail. Notice shall be sufficient if made in

~~person or if sent by registered or certified mail to the person charged at the address shown in the board files or on his most recent application for registration or renewal, no later than 10 days before the hearing].~~

(b) If service of notice as prescribed by Subsection (a) of this section is impossible or cannot be effected, the board shall cause to be published once a week for two successive weeks a notice of the hearing in a newspaper published in the county of the last known place of practice in Texas of the person, if known. If the licensee is not currently practicing in Texas as evidenced by information in the board files, or if the last county of practice is unknown, publication shall be in a newspaper in Travis County. When publication of notice is used, the date of hearing may not be less than 10 days after the date of the last publication of notice.

SECTION 24. Section 4.05, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.05. HEARINGS, RULES. (a) ~~The [president of the] board by rule shall adopt procedures governing formal disposition of a contested case under the Administrative Procedure Act and its subsequent amendments. A formal hearing shall be conducted by an administrative law judge employed by the State Office of Administrative Hearings [designate one of the following alternative procedures for the conduct of each individual contested case in a disciplinary matter:~~

~~[(1) a hearing before the board itself where a quorum of the board shall be present for the hearing and decision at the conclusion of the hearing;~~

~~[(2) a hearing committee appointed by the president of the board, provided that the hearing committee shall be composed of not less than three members of the board and the composition of such committee shall be consistent with the provisions of Sections 2.08 and 2.09 of this Act; or~~

~~[(3) a hearing before a hearing examiner appointed by the board to conduct a hearing and to prepare and submit to the board for action a proposal for decision as provided in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes);~~

~~[Any individual conducting a hearing under this subchapter is empowered to administer oaths and to receive evidence at the hearing and shall report the hearing as prescribed by board rules]. Notwithstanding any other provision of this Act or other law, the board may, in its sole discretion, employ, retain, and compensate such attorneys, consultants, and other professionals as it deems necessary and appropriate to serve as [hearing examiners,] board consultants or[.] special counsel to prosecute on behalf of the hearings division and investigating division such complaints as are filed with the board, court reporters, and other staff deemed necessary or appropriate by the board to prepare for or represent the board in [conduct] the hearings authorized by this section. [All hearings conducted under this subchapter by the board shall comply with the provisions of the Administrative Procedure Act and the board's rules.]~~

(b) ~~[The licensee shall have the right to produce witnesses or evidence on the person's behalf, to cross-examine witnesses, and to have subpoenas issued by the board to be served at the licensee's expense.]~~

~~[(c)]~~ The board shall, after receiving the administrative law judge's findings of fact and conclusions of law ~~[the hearing]~~, determine the charges upon their merits.

(c) ~~[(d)]~~ All complaints, adverse reports, investigation files, other investigation reports, and other investigative information in the possession of, received or gathered by the board or its employees or agents relating to a licensee, an application for license, or a criminal investigation or proceedings are privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to anyone other than the board or its employees or agents involved in licensee discipline. Not later than 30 days after receiving a written request from a licensee who is the subject of a formal complaint initiated and filed under Section 4.03 of this Act or from the licensee's counsel of record and subject to any other privileges or restrictions set forth by rule, statute, or legal precedent, and unless good cause is shown for delay, the board shall provide the licensee with access to all information in its possession that the board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint. However, the board is not required to provide board investigative reports or investigative memoranda, the identity of nontestifying complainants, attorney-client communications, attorney-work product, or other materials covered by a privilege as recognized by the Texas Rules of Civil Procedure or the Texas Rules of Civil Evidence. The furnishing of information shall not constitute a waiver of privilege or confidentiality under this section, this Act, or other applicable law. Investigative ~~However, investigative~~ information in the possession of the board or its employees or agents which relates to licensee discipline may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license, or to a peer review committee reviewing an application for privileges or the qualifications of the licensee with respect to retaining privileges. If the investigative information in the possession of the board or its employees or agents indicates a crime may have been committed, the information shall be reported to the proper law enforcement agency. The board shall cooperate and assist all law enforcement agencies conducting criminal investigations of licensees by providing information which is relevant to the criminal investigation to the investigating agency. Any information disclosed by the board to an investigative agency shall remain confidential and shall not be disclosed by the investigating agency except as necessary to further the investigation. The board shall provide information upon the written request of a health-care entity about a complaint filed against a licensee that was resolved after investigation by a disciplinary order of the board or by an agreed settlement and the basis of and current status of any complaint under active investigation. The board shall keep information on file about each complaint filed with the board, consistent with this Act. If a written complaint is filed with the board relating to a person licensed by the board, the board, at least as often as quarterly and until final determination of the action to be taken relative to the complaint, shall notify the parties to the complaint ~~[complaining party]~~ consistent with this

Act of the status of the complaint unless the notice would jeopardize an active investigation.

(d) [(e)] The board in its discretion may accept the voluntary surrender of a license. No license may be returned unless the board determines, under rules established by it, that the licensee is competent to resume practice.

SECTION 25. Section 4.10, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.10. PETITION FOR REINSTATEMENT. **(a)** Upon application, the board may reissue a license to practice medicine to a person whose license has been canceled, revoked, or suspended, but the application, in the case of revocation, may not be made prior to one year after the revocation was issued or became final and must be made upon payment of the fees as established by the board and in the manner and form and under the conditions as the board may require. Further, the board may not reinstate or reissue a license to a person whose license has been canceled, revoked, or suspended because of a felony conviction under Chapter 481, Health and Safety Code, Section 485.033, Health and Safety Code, Chapter 483, Health and Safety Code, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513), except on an express determination based on substantial evidence contained in an investigative report indicating that the reinstatement or reissue of the license is in the best interests of the public and of the person whose license has been canceled, revoked, or suspended.

(b) A decision by the board to deny an application to reinstate or reissue a license is subject to judicial review in the manner provided by Section 4.09 of this Act.

SECTION 26. Section 4.11, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.11. Monitoring of License Holder; PROBATION. **(a) The board by rule shall develop a system for monitoring the compliance with the requirements of this Act of license holders who are the subject of disciplinary action. Rules adopted under this section shall include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who are the subject of disciplinary action and who present a continuing threat to the public welfare through the practice of medicine.**

(b) The board upon majority vote may provide that the order canceling, revoking, or suspending a license or imposing any other method of discipline be probated so long as the probationer conforms to the orders, conditions, and rules that the board may set out as the terms of probation. However, the board may not grant probation to a person whose license has been canceled, revoked, or suspended because of a felony conviction under Chapter 481, Health and Safety Code, Section 485.033, Health and Safety Code, Chapter 483, Health and Safety Code, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513), except on an express determination, based on substantial evidence, that the grant of probation is in the best interests of

the public and of the person whose license has been suspended, revoked, or canceled. The board, at the time of probation, shall set out the period of time that constitutes the probationary period. The board may not grant probation to a physician who poses, through the practice of medicine, a continuing threat to the public welfare.

(c) ~~(b)~~ The board may at any time while a license holder ~~[the probationer]~~ remains on probation, with adequate grounds being shown, cause ~~[hold]~~ a hearing to be held and, upon proof of a violation of the order ~~[majority vote]~~, rescind the probation and enforce the board's original action and may impose any disciplinary action permitted under Section 4.12 of this Act in addition to or in lieu of enforcing the original order. ~~The board~~ and shall revoke or suspend a probationer's license ~~[do so]~~ if the board determines that the probationer poses, through the practice of medicine, a continuing threat to the public welfare.

(d) ~~(c)~~ The hearing to rescind the probation shall be governed by the same provisions as are set forth in this subchapter for other charges.

SECTION 27. Section 4.12, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.12. METHODS OF DISCIPLINE. (a) Except as otherwise provided in Section 4.01, if the board finds any person to have committed any of the acts set forth in Section 3.08 of this Act, it shall enter an order imposing one or more of the following:

(1) deny the person's application for a license or other authorization to practice medicine;

(2) administer a public reprimand;

(3) suspend, limit, or restrict the person's license or other authorization to practice medicine, including limiting the practice of the person to or by the exclusion of one or more specified activities of medicine or stipulating periodic board review;

(4) revoke the person's license or other authorization to practice medicine;

(5) require the person to submit to care, counseling, or treatment of physicians designated by the board as a condition for the initial, continued, or renewal of a license or other authorization to practice medicine;

(6) require the person to participate in a program of education or counseling prescribed by the board;

(7) require the person to practice under the direction of a physician designated by the board for a specified period of time; ~~[or]~~

(8) require the person to perform public service considered appropriate by the board; or

(9) assess an administrative penalty against the person as provided by Section 4.125 of this Act.

(b) Providing however, if the board determines that, through the practice of medicine, the physician poses a continuing threat to the public welfare, it shall revoke, suspend or deny the license.

(c) In addition to the other disciplinary actions authorized by this section, the board may issue a written reprimand to a license holder who violates this Act or require that a license holder who violates this Act

participate in continuing education programs. The board shall specify the continuing education programs that may be attended and the number of hours that must be completed by an individual license holder to fulfill the requirements of this subsection.

(d) If a license suspension is probated, the board may require the license holder to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(e) The schedule of sanctions adopted by the board by rule shall be used by the State Office of Administrative Hearings for any sanction imposed as the result of a hearing conducted by that office.

SECTION 28. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 4.125 to read as follows:

Sec. 4.125. ADMINISTRATIVE PENALTY. (a) The board by order may impose an administrative penalty against a person licensed or regulated under this Act who violates this Act or a rule or order adopted under this Act.

(b) The penalty for a violation may be in an amount not to exceed \$5,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) The board by rule shall prescribe the procedure by which it may impose an administrative penalty.

(e) All proceedings under this section are subject to the Administrative Procedure Act and its subsequent amendments.

(f) If the board by order finds that a violation has occurred and imposes an administrative penalty, the board shall give notice to the person of the board's order. The notice must include a statement of the right of the person to judicial review of the order.

(g) Within 30 days after the date the board's order imposing the penalty is final as provided by Section 16(c), Administrative Procedure Act, and its subsequent amendments, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) Within the 30-day period, a person who acts under Subsection (g)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(i) An executive director who receives a copy of an affidavit under Subsection (h)(2) of this section may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(j) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(k) If on appeal the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(l) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a

supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(m) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

SECTION 29. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Section 4.126 to read as follows:

Sec. 4.126. CIVIL PENALTY. (a) If it appears that a person is in violation of or is threatening to violate this Act or a rule or order adopted by the board, the attorney general may institute an action for a civil penalty of \$1,000 for each violation. Each day of a violation shall constitute a separate violation.

(b) A civil action filed under this section by the attorney general must be filed in a district court in Travis County or the county in which the violation occurred.

(c) The attorney general may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(d) A civil penalty recovered in an action by the attorney general under this section shall be deposited in the general revenue fund.

SECTION 30. Section 4.13, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.13. TEMPORARY SUSPENSION OF LICENSE. (a) The president of the board, with the approval of the board, shall appoint a three-member disciplinary panel consisting of members of the board for the purpose of determining whether a person's license to practice medicine in this state should be temporarily suspended under this section.

(b) If the disciplinary panel [executive committee of the board] determines from the evidence or information presented to it that a person licensed to practice medicine in this state by his continuation in practice would constitute a continuing threat to the public welfare, the disciplinary panel [executive committee of the board] shall temporarily suspend the license of that person.

(c) The license may be suspended under this section without notice or hearing on the complaint, provided institution of proceedings for a hearing before the board is initiated simultaneously with the temporary suspension and provided that a hearing is held as soon as can be accomplished under the Administrative Procedure Act and this Act.

(d) Notwithstanding the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and the convening at one location of the disciplinary panel is inconvenient for any member of the disciplinary panel.

SECTION 31. Subchapter E, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Section 5.035 to read as follows:

Sec. 5.035. GRADUATES OF UNAPPROVED FOREIGN MEDICAL SCHOOLS. (a) An applicant who is a graduate of a medical school that is located outside the United States and Canada and that was not approved by the board at the time the degree was conferred, to be eligible for the issuance of a license, must present satisfactory proof to the board that the applicant:

(1) meets the requirements set out in Sections 3.04(a)(1), (2), and (3) of this Act;

(2) is a graduate of a school whose curriculum meets the requirements for an unapproved medical school as determined by a committee of experts selected by the Texas Higher Education Coordinating Board;

(3) has successfully completed three years of graduate medical training in the United States or Canada that was approved by the board on the date the training was completed;

(4) is eligible for licensure to practice medicine in the country in which the school is located;

(5) possesses a valid certificate issued by the Educational Commission for Foreign Medical Graduates;

(6) has the ability to communicate in the English language; and

(7) has passed the examination required by the board of all applicants for license as required by Section 3.05 of this Act.

(b) In addition to other licensure requirements, the board may require by rule that a graduate of an unapproved medical school located outside the United States and Canada or the school of which the person is a graduate provide additional information to the board concerning the school before approving the applicant.

(c) The board may refuse to issue a license to an applicant who graduated from an unapproved medical school located outside the United States and Canada if it finds that the applicant does not possess the requisite qualifications to provide the same standard of medical care as provided by a physician licensed in this state.

(d) The board may refuse to issue a license to an applicant who graduated from an unapproved medical school located outside the United States and Canada if the applicant fails to provide the board evidence to establish that the applicant completed medical education or professional training substantially equivalent to that provided by a medical school in this state.

SECTION 32. Section 5.04, Medical Practice Act, is amended to read as follows:

Sec. 5.04. FIFTH PATHWAY FOR FOREIGN MEDICAL SCHOOL STUDENTS. (a) An applicant [Notwithstanding any other provision of law, an individual] who has been a student of a foreign medical school, to be eligible for the issuance of a license, must present satisfactory proof to the board that the applicant [is eligible for licensure to practice medicine in this state if he]:

(1) meets the requirements set out in Sections 3.04(a)(1), (2), and (3) of this Act;

(2) has studied medicine in an acceptable ~~a reputable~~ medical school as defined by the board located outside the United States and Canada;

(3) ~~(2)~~ has completed all of the didactic work of the foreign medical school but has not graduated from the school;

(4) ~~(3)~~ has attained a score satisfactory to a medical school in the United States approved by the Liaison Committee on Medical Education on a qualifying examination and has satisfactorily completed one academic year of supervised clinical training for foreign medical students as defined by the American Medical Association Council on Medical Education (Fifth Pathway Program) under the direction of the medical school in the United States;

(5) ~~(4)~~ has attained a passing score on the Educational Commission ~~Committee~~ for Foreign Medical Graduates examination, or other examination, if required by the board; ~~and~~

(6) has successfully completed three years of graduate medical training in the United States or Canada that was approved by the board on the date the training was completed; and

(7) ~~(5)~~ has passed the examination required by the board of all applicants for license as required by Section 3.05 of this Act.

(b) Satisfaction of the requirements of Subsection (a) of this section are in lieu of the completion of any requirements of the foreign medical school beyond completion of the didactic work, and no other medical education requirements shall be a condition of licensure to practice medicine in this state.

(c) Satisfaction of the requirements specified in Subsection (a) of this section shall be in lieu of certification by the Educational Commission ~~Committee~~ for Foreign Medical Graduates, and the certification is not a condition of licensure to practice medicine in this state for candidates who have completed the requirements of Subsection (a) of this section.

(d) A hospital that is licensed by this state, that is operated by the state or a political subdivision of the state, or that receives state financial assistance, directly or indirectly, may not require an individual who has been a student of a foreign medical school but has not graduated from the school to satisfy any requirements other than those contained in ~~[Subdivisions (1), (2), (3), and (4) of]~~ Subsection (a) of this section prior to commencing an internship or residency.

(e) A document granted by a medical school located outside the United States issued after the completion of all the didactic work of the foreign medical school shall, on certification by the medical school in the United States in which the training was received of satisfactory completion by the person to whom the document was issued of the requirements listed in Subdivision (4) ~~(3)~~ of Subsection (a) of this section, be considered the equivalent of a degree of doctor of medicine or doctor of osteopathy for purposes of licensure.

SECTION 33. Section 5.08(k), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(k) A physician shall furnish copies of medical records requested, or a summary or narrative of the records, pursuant to a written consent for

release of the information as provided by Subsection (j) of this section, except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient, and the physician may delete confidential information about another person who has not consented to the release. The information shall be furnished by the physician within 30 days after the date of receipt of the request [~~a reasonable period of time~~] and reasonable fees for furnishing the information shall be paid by the patient or someone on his behalf. If the physician denies the request, in whole or in part, the physician shall furnish the patient a written statement, signed and dated, stating the reason for the denial. A copy of the statement denying the request shall be placed in the patient's medical records. In this subsection, "medical records" means any records pertaining to the history, diagnosis, treatment, or prognosis of the patient.

SECTION 34. Section 5.10, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.10. SUNSET PROVISION. The Texas State Board of Medical Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2005 [~~1993~~].

SECTION 35. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ACUPUNCTURE PRACTICE

Sec. 6.01. LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that:

(1) the review and establishment of statewide standards for the training, education, and discipline of persons performing acupuncture are in the public interest; and

(2) the health, safety, and welfare of the people of this state are best served by an orderly system of regulating the practice of acupuncture.

Sec. 6.02. DEFINITIONS. In this subchapter:

(1) "Acupuncture" means:

(A) the insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition; and

(B) the administration of thermal or electrical treatments or the recommendation of dietary guidelines, therapeutic exercise, or dietary or herbal supplements in conjunction with the treatment described by Paragraph (A) of this subdivision.

(2) "Acupuncturist" means a person who practices acupuncture.

(3) "Acupuncture board" means the Texas State Board of Acupuncture Examiners.

(4) "Chiropractor" means a licensee of the Texas Board of Chiropractic Examiners.

(5) "Executive director" means the executive director of the Texas State Board of Medical Examiners.

(6) "Medical board" means the Texas State Board of Medical Examiners.

(7) "Physician" means a licensee of the Texas State Board of Medical Examiners.

Sec. 6.03. EXEMPTION; LIMITATION. (a) This subchapter does not apply to a health care professional licensed under another subchapter of this Act or another statute of this state and acting within the scope of the license.

(b) This subchapter does not:

(1) limit the practice of medicine by a physician or permit the unauthorized practice of medicine; or

(2) permit a person to dispense, administer, or supply any controlled substance, narcotic, or dangerous drug if the person is not otherwise authorized by law to do so.

Sec. 6.04. ACUPUNCTURE BOARD. (a) The Texas State Board of Acupuncture Examiners is composed of nine members appointed by the governor as follows:

(1) four acupuncturists who have at least five years of experience in the practice of acupuncture in this state and are not licensed in this state as physicians;

(2) two physicians who are licensed in this state and are experienced in the practice of acupuncture; and

(3) three members of the general public who are not licensed or trained in a health care profession and who represent the public.

(b) The following persons may not serve on the acupuncture board:

(1) a person who is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments; and

(2) a person who is currently employed by or serving as president, vice-president, secretary, or treasurer of a statewide or national organization incorporated for the purpose of representing a health care profession in this state or the United States.

(c) Members of the acupuncture board hold office for staggered terms of six years, with three members' terms expiring January 31 of each odd-numbered year.

(d) The governor shall designate a presiding officer of the acupuncture board from the members of the acupuncture board.

(e) A vacancy on the acupuncture board shall be filled by appointment of the governor.

(f) A member of the acupuncture board may not receive compensation for service on the board but is entitled to receive a per diem as set by legislative appropriation for transportation and related expenses incurred for each day that the member engages in the business of the board.

(g) The acupuncture board is subject to the open meetings law, the open records law, and the Administrative Procedure Act and any subsequent amendments.

(h) The acupuncture board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 1997.

Sec. 6.05. POWERS AND DUTIES OF ACUPUNCTURE BOARD. (a) Subject to the advice and approval of the medical board, the acupuncture board shall:

(1) establish qualifications for an acupuncturist to practice in this state;

(2) establish minimum educational and training requirements necessary for the acupuncture board to recommend that the medical board issue a license to practice acupuncture;

(3) administer an examination that is validated by independent testing professionals for a license to practice acupuncture;

(4) develop requirements for licensure by endorsement of other states;

(5) prescribe the application form for a license to practice acupuncture;

(6) make recommendations on applications for licenses to practice acupuncture;

(7) establish a procedure for reporting and processing complaints relating to the practice of acupuncture under this article;

(8) establish the requirements for a tutorial program for students who have completed at least 48 semester hours of college; and

(9) recommend additional rules as are necessary for the administration and enforcement of this subchapter.

(b) Notwithstanding Subsection (a) of this section, the acupuncture board has no independent rulemaking authority.

Sec. 6.06. LICENSE REQUIRED. A person may not practice acupuncture in this state unless the person holds a license to practice acupuncture issued by the medical board under this subchapter.

Sec. 6.07. QUALIFICATIONS OF ACUPUNCTURISTS. (a) An applicant for a license to practice acupuncture who is not otherwise licensed under this subchapter must pass an examination approved by the acupuncture board.

(b) To be eligible for the examination, an applicant must:

(1) be at least 21 years of age;

(2) have completed at least 48 semester hours of college courses, including basic science courses as determined by the advisory board; and

(3) be a graduate of an acceptable acupuncture school whose entrance requirements and course of instruction meet standards set by the acupuncture board.

(c) A reputable acupuncture school must:

(1) maintain a resident course of instruction equivalent to not less than six terms of four months each for a total of not less than 1,800 instructional hours;

(2) provide supervised patient treatment for at least two terms of the resident course of instruction;

(3) maintain a course of instruction in anatomy-histology, bacteriology, physiology, symptomatology, pathology, meridian and point locations, hygiene, and public health; and

(4) have the necessary teaching force and facilities for proper instruction in required subjects.

(d) In establishing standards for the entrance requirements and course of instruction of an acupuncture school, the acupuncture board may

consider the standards set by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

(e) The examination shall be conducted on practical and theoretical acupuncture and other subjects required by the acupuncture board.

(f) An application for examination must be:

(1) in writing on a form prescribed by the acupuncture board;

(2) verified by affidavit;

(3) filed with the executive director of the medical board; and

(4) accompanied by a fee set by the medical board.

(g) The medical board shall notify all applicants of the time and place of the examination.

(h) The examination may be in writing, by a practical demonstration of the applicant's skill, or both, as the acupuncture board may require.

Sec. 6.08. ASSISTANCE BY MEDICAL BOARD. The medical board shall provide administrative and clerical employees as necessary to enable the acupuncture board to carry out this subchapter.

Sec. 6.09. FEES. (a) The medical board shall set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing this subchapter without the use of any other funds generated by the medical board.

(b) Fees collected by the medical board under this subchapter shall be deposited by the medical board in the state treasury to the credit of a special account in the general revenue fund. The special account may be used only to cover the costs of administering and enforcing this subchapter. The special account is exempt from Section 403.094(h), Government Code, and its subsequent amendments.

Sec. 6.10. ISSUANCE OF LICENSE. (a) After consulting the acupuncture board, the medical board shall issue a license to practice acupuncture in this state to a person who meets the requirements of this subchapter and the rules adopted under this subchapter.

(b) The medical board shall by rule provide for the annual renewal of a license to practice acupuncture.

Sec. 6.11. DENIAL OF LICENSE; DISCIPLINE OF LICENSE HOLDER. (a) A license to practice acupuncture may be denied or, after notice and hearing, suspended, probated, or revoked if the applicant for a license or the holder of a license:

(1) uses drugs or intoxicating liquors to an extent that affects the person's professional competence;

(2) obtains or attempts to obtain a license by fraud or deception;

(3) is adjudged mentally incompetent by a court of competent jurisdiction;

(4) practices acupuncture in a manner detrimental to the public health and welfare;

(5) violates this subchapter or a rule adopted under this subchapter;

(6) is convicted of a felony or a crime involving moral turpitude;
or

(7) holds himself out as a physician or surgeon or any combination or derivative of those terms unless the person is also licensed by the medical board as a physician or surgeon.

(b) Except as provided by Subsection (c) of this section, a license to practice acupuncture shall be denied or, after notice and hearing, revoked if the holder of a license has performed acupuncture on a person who was not evaluated by a physician or dentist, as appropriate, for the condition being treated within six months before the date acupuncture was performed.

(c) The holder of a license may perform acupuncture on a person who was referred by a doctor licensed to practice chiropractic by the Texas Board of Chiropractic Examiners if the licensee commences the treatment within 30 days of the date of the referral. The licensee shall refer the person to a physician after performing acupuncture 20 times or for 30 days, whichever occurs first, if no substantial improvement occurs in the person's condition for which the referral was made.

(d) The holder of a license must obtain reasonable documentation that the evaluation required by Subsection (b) of this section has taken place. If the licensee is unable to determine that an evaluation has taken place, the licensee must obtain a written statement signed by the person on a form prescribed by the acupuncture board that states that the person has been evaluated by a physician within the prescribed time frame. The form shall contain a clear statement that the person should be evaluated by a physician for the condition being treated by the licensee.

(e) The medical board with advice from the acupuncture board by rule may modify the requirement of the time frame or the scope of the evaluation under Subsection (b) of this section.

(f) The medical board with advice from the acupuncture board by rule may modify the requirement of the time frame for commencement of treatment after referral by a chiropractor or the number of treatments or days before referral to a physician is required under Subsection (c) of this section.

(g) Notwithstanding Subsections (b) and (c) of this section, an acupuncturist holding a current and valid license may without a referral from a physician, dentist, or chiropractor perform acupuncture on a person for smoking addiction, weight loss, or, as established by the medical board with advice from the acupuncture board by rule, substance abuse.

Sec. 6.12. OFFENSE. (a) A person commits an offense if the person violates Section 6.06 of this Act.

(b) An offense under Subsection (a) of this section is a Class A misdemeanor.

(c) Each day of a violation constitutes a separate offense.

Sec. 6.13. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The medical board, the attorney general, or a district or county attorney may bring a civil action to compel compliance with this subchapter or to enforce a rule adopted under this subchapter.

(b) In addition to injunctive relief or any other remedy provided by law, a person who violates this subchapter or a rule adopted under this subchapter is liable to the state for a civil penalty in an amount not to exceed \$2,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a civil penalty. The attorney general, at the request of the medical board or on the attorney general's own initiative, may bring a civil action to collect a civil penalty

under this subsection. A civil penalty recovered shall be deposited to the credit of the general revenue fund.

Sec. 6.14. AUTOMATIC LICENSURE. (a) With the approval of the medical board, the acupuncture board shall establish appropriate and reasonable requirements to determine those persons practicing acupuncture on the effective date of this subchapter who are eligible for immediate approval for a license to practice acupuncture under this section.

(b) This section only applies to a person who meets the requirements for immediate licensure under this section and who applies for immediate approval on or before June 1, 1994.

(c) This section expires June 2, 1994.

SECTION 36. (a) As soon as possible on or after the effective date of this Act, the governor shall appoint 15 new members to the Texas State Board of Medical Examiners in accordance with Section 2.05, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), as amended by this Act. In making the appointments, the governor shall designate five members for terms expiring April 13, 1995, five members for terms expiring April 13, 1997, and five members for terms expiring April 13, 1999. The members appointed under this subsection may not perform the functions of the board until the day after the date a majority of the new members take office.

(b) Until the date the new members of the Texas State Board of Medical Examiners may begin performing the functions of the board under Subsection (a) of this section, the members serving on the board immediately before the effective date of this Act shall continue to carry out the functions of the board. On the date the new members may begin performing the functions of the board, the offices of the members serving immediately before the effective date of this Act are abolished.

(c) The changes in law made by this Act in the qualifications of, and the prohibitions applying to, members of the Texas State Board of Medical Examiners do not affect the entitlement of a member serving on the board immediately before the effective date of this Act to continue to carry out the functions of the board for the period prescribed by Subsection (b) of this section. The changes in law apply only to a member appointed on or after the effective date of this Act. This Act does not prohibit a person who is a member of the board on the effective date of this Act from being reappointed to the board if the person has the qualifications required for a member under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), as amended by this Act.

(d) The changes in law made by this Act relating to an administrative penalty or civil penalty apply only to a violation of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) or a rule or order adopted by the Texas State Board of Medical Examiners that occurs on or after the effective date of this Act. A violation occurs on or after the effective date of this Act only if each element of the violation occurs on or after that date. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

(e) A person is not required to obtain a license to practice acupuncture under Subchapter F, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), as added by this Act, until June 1, 1994.

(f) The Texas State Board of Medical Examiners shall adopt rules under Subchapter F, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), as added by this Act, not later than February 1, 1994.

(g) Not later than January 1, 1994, the governor shall make initial appointments to the Texas State Board of Acupuncture Examiners and shall designate three members for terms expiring January 31, 1995, three members for terms expiring January 31, 1997, and three members for terms expiring January 31, 1999.

(h) Notwithstanding other provisions of this Act, Sections 6.06 and 6.12 of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), as added by this Act, take effect June 1, 1994.

SECTION 37. This Act takes effect September 1, 1993.

SECTION 38. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Rosson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to C.S.S.B. 1062 by adding a new section to read as follows and appropriately renumbering the remaining sections:

Section _____. Section 5.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsection (n) to read as follows:

(d) The prohibitions of this section continue to apply to confidential communications or records concerning any patient irrespective of when the patient received the services of a physician, except for medical records 100 years old or older, requested for historical purposes.

(n) A person who may provide a copy of a record, or a summary of the record, to another under this section may provide the copy, summary, or narrative:

(1) on paper; or

(2) on microfilm, microfiche, computer hard disk, magnetic tape, optical disk, or by means of another appropriate medium, including a machine-readable medium, if the person who is to provide and the person who is to receive the copy, summary, or narrative agree to a form authorized by this subdivision.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Moncrief offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to C.S.S.B. 1062 by adding the following on page 7, line 8 and renumbering subsequent sections:

Section 6. TRAINING AND GUIDELINES FOR MEMBERS OF THE BOARD. (a) The board shall establish a training program for the members of the board.

(b) Before a member of a board may assume the member's duties, the member must complete at least one course of the training program established under this section, and before the member may be confirmed by the senate, the member must pass an examination given in conjunction with the attorney general on subjects described by Subsections (c) (7), (8), and (9) of this section.

(c) A training program established under this section shall provide information to a participant regarding:

(1) the enabling legislation that created the board to which the member is appointed;

(2) the programs operated by the agency;

(3) the role and functions of the agency;

(4) the rules of the agency with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the agency;

(6) the results of the most recent formal audit of the agency;

(7) the requirements of the:

(A) open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments;

(B) open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(C) Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by that state agency or the Texas Ethics Commission.

(d) In developing the training requirements provided for in this section, the board shall consult with the governor's office, the attorney general's office, and the ethics commission.

(e) In the event that another state agency or entity is given the authority to establish the training requirements, the board shall allow that training in lieu of developing its own program.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to C.S.S.B 1062 in Section 36 of the bill by striking Subsections (a), (b), and (c), inserting a new Subsection (a) to read as follows, and relettering the subsequent subsections appropriately:

(a) The changes in law made by this Act in the qualifications of, and the prohibitions applying to, members of the Texas State Board of Medical Examiners do not affect the entitlement of a member serving on the board immediately before the effective date of this Act to continue to carry out the functions of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after the effective date of this Act. This Act does not prohibit a person who is a member of the board on the effective date of this Act from being reappointed to the board if the person has the qualifications required for a member under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), as amended by this Act. As the terms of members of the board expire or as vacancies occur on the board, the governor shall appoint members to the board to achieve, as soon as possible, the membership plan prescribed for the board by this Act.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Moncrief offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 5

Amend Floor Amendment No. 1 to C.S.S.B. 1062 as follows:

SECTION _____. Section 19, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. LICENSES WITHOUT EXAMINATION. (a) The board may issue a license to practice physics in this state, without an examination, to a person who, before September 1, 1994, is a resident of this state and:

(1) has an earned bachelor's, master's, or doctoral degree from an accredited college or university that signifies the completion of courses approved by the board in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and demonstrated to the board's satisfaction the completion of at least two years of full-time experience in the five years preceding January 1, 1993, ~~[the effective date of this Act]~~ in the medical physics specialty for which application is made; or

(2) has completed a training course approved by the board in physics, medical physics, biophysics, radiological physics, or medical health physics and demonstrated to the board's satisfaction the completion of at least 10 years of full-time work experience in the 12 years preceding January 1, 1993, ~~[the effective date of this Act]~~ in the medical physics specialty for which application is made.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 6

Amend Floor Amendment No. 1 to C.S.S.B. 1062 as follows:

Add a new Section 15 to the bill to read as follows and renumber subsequent sections as appropriate:

SECTION 15. Sec. 3.06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Subsections (g) and (h) to read as follows:

(g) This Act does not prohibit a nonprofit clinic that is operated by a nonprofit hospital or organization and that primarily serves a financially indigent population from:

(1) contracting with a physician to provide services at the clinic;

(2) paying a physician a minimum guarantee to assure the physician's availability;

(3) billing to and collecting from patients as the physician's agent the physician's professional fees; or

(4) retaining any professional fees collected under Subdivision (3) of this subsection up to the amount of the minimum guarantee fee and a reasonable collection fee.

(h) In Subsection (g), "financially indigent population" means persons meeting Medicaid eligibility requirements or uninsured persons who are accepted for care with no obligation to pay or with a discounted obligation to pay for services rendered based on the clinic's eligibility system.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, Floor Amendment No. 1 as amended was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1062 ON THIRD READING**

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1062 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

The Presiding Officer, Senator Haley in Chair, introduced to the Senate Supreme Court Chief Justice Thomas R. Phillips and Supreme Court Justice Jack Hightower, former member of the Texas Senate.

The Senate welcomed its guests.

SENATE BILL 572 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 572, Relating to the creation of municipal courts of record in Hurst.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 572 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 572** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

SENATE BILL 1310 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1310, Relating to the creation of municipal courts of record in Carrollton.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 1310 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1310** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1385 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1385, Relating to the creation of municipal courts of record in Euless.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1385 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 1385 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

FLOOR PRIVILEGES GRANTED

On motion of Senator Ellis and by unanimous consent, floor privileges were granted to Mark Strama, Legislative Director of Senator Ellis' staff, during the deliberation of C.S.S.B. 309.

COMMITTEE SUBSTITUTE SENATE BILL 309 ON SECOND READING

Senator Ellis asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 309, Relating to the regulation of political contributions, political expenditures, and political advertising in connection with certain judicial candidates and officeholders, to personal financial statements filed by certain judicial officeholders, and to certain appointments made by trial judges; providing civil and criminal penalties.

There was objection.

Senator Ellis then moved to suspend the regular order of business and take up C.S.S.B. 309 for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Carriker, Ellis, Haley, Harris of Tarrant, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Parker, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Brown, Harris of Dallas, Henderson, Nelson, Shelley.

The bill was read second time.

(President in Chair)

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 309 as follows:

(1) In Section 2 of the bill, in added Section 253.161(a), Election Code, strike "judicial candidate or assisting a judicial candidate" and insert "candidate for an office other than chief justice or justice, supreme court,

or presiding judge or judge, court of criminal appeals, or assisting such a candidate".

(2) In Section 2 of the bill, in added Section 253.161, Election Code, insert a new Subsection (b) to read as follows:

(b) A person other than a candidate, officeholder, or the state executive committee or a county executive committee of a political party may not make political expenditures that in the aggregate exceed \$15,000 for the purpose of supporting or opposing a candidate for chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals, or assisting such a candidate as an officeholder unless the person files with the commission a written declaration of the person's intent to make expenditures that exceed the limit prescribed by this subsection.

(3) In Section 2 of the bill, in added Section 253.161(b), Election Code, strike "Subsection (a)" both places those words appear and substitute "Subsection (a) or (b)".

(4) In Section 2 of the bill, in added Section 253.161(c), Election Code, strike "Subsection (a)" and substitute "Subsection (a) or (b)".

(5) In Section 2 of the bill, in added Section 253.161(d), Election Code, strike "Subsection (a)" and substitute "Subsection (a) or (b)".

(6) In Section 2 of the bill, in added Section 253.161(e), Election Code, strike "Subsection (a)" both places those words appear and substitute "Subsection (a) or (b)".

(7) In Section 2 of the bill, in added Section 253.161, Election Code, reletter existing Subsections (b), (c), (d), (e), (f), and (g) as Subsections (c), (d), (e), (f), (g), and (h), respectively.

(8) In Section 2 of the bill, in added Section 253.168(a), between "complying candidate" and "or", insert "for an office other than chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals.".

(9) In Section 2 of the bill, in added Section 253.168(a), Election Code, strike "supporting a complying candidate" and substitute "supporting such a candidate".

(10) In Section 2 of the bill, in added Section 253.168, insert a new Subsection (b) to read as follows:

(b) A complying candidate for chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals, or a specific-purpose committee for supporting such a candidate is not required to comply with the limits on contributions, expenditures, and the use of personal funds prescribed by this subchapter if a person other than the candidate's opponent or the state executive committee or a county executive committee of a political party makes political expenditures that in the aggregate exceed \$15,000 for the purpose of supporting the candidate's opponent, opposing the candidate, or assisting the candidate's opponent as an officeholder.

(11) In Section 2 of the bill, in added Section 253.168(b), Election Code, strike "Subsection (a)" both places those words appear and substitute "Subsection (a) or (b)".

(12) In Section 2 of the bill, in added Section 253.168(c), Election Code, strike "Subsection (a)" and substitute "Subsection (a) or (b)".

(13) In Section 2 of the bill, in added Section 253.168, Election Code, reletter existing Subsections (b) and (c) as Subsections (c) and (d), respectively.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 309 as follows:

(1) In Section 2 of the bill, strike Subsection (b) in added Section 253.159, Election Code, and reletter existing Subsection (c) in added Section 253.159, Election Code, as Subsection (b).

(2) In the first sentence of Subsection (a) in added Section 253.159, Election Code, strike "Except as provided by Subsection (b), a" and substitute "A".

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 309 as follows:

(1) In Section 2 of the bill, in added Section 253.155(d), Election Code, between "by" and "the", insert "the principal political committee of".

(2) In Section 2 of the bill, in added Section 253.157(b), Election Code, strike "accepts" and substitute "receives".

(3) In Section 2 of the bill, in added Section 253.158(d), Election Code, between "to" and "the", insert "the principal political committee of".

(4) In Section 2 of the bill, in added Section 253.163(a), Election Code, strike "or opposing".

(5) In Section 2 of the bill, in added Section 253.169(a), Election Code, between "made by" and "the", insert "the principal political committee of".

(6) In Section 2 of the bill, in added Section 253.169, Election Code, strike existing Subsection (b) and substitute the following:

(b) Subsection (a) does not apply to a political expenditure for a general get-out-the-vote campaign or a written list that:

(1) identifies the party's candidates by name and office sought, office held, or photograph;

(2) does not include any reference to the party's or a candidate's ideology, philosophy, or position on an issue; or

(3) is not used in connection with any broadcasting, cablecasting, newspaper, magazine, billboard, or similar type of public communication.

(7) In Section 2 of the bill, in added Section 253.171(a), Election Code, between "\$5,000" and the period, insert "for each election in which the candidate is involved".

(8) In Section 4 of the bill, in amended Section 254.040(c), Election Code, strike "violates this section" and substitute "violates Subsection (b)".

The amendment was read and was adopted by a viva voce vote.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.S.B. 309 by inserting the following appropriately numbered sections to read as follows:

SECTION ____ . Section 1.005, Election Code, is amended by amending Subdivision (20) and by adding Subdivision (25) to read as follows:

(20) "Straight-party vote" means a vote by a single mark, punch, or other action by the voter for all the nominees of one political party, except nominees for judicial or law enforcement offices, and for no other candidates.

(25) "Judicial or law enforcement office" means an office listed in Section 52.092(g).

SECTION ____ . Section 52.065, Election Code, is amended by adding Subsection (f) to read as follows:

(f) Judicial and law enforcement offices shall appear on the ballot in the same format as the other offices but under the heading "Judicial and Law Enforcement Offices" after the listing of the other offices.

SECTION ____ . Section 52.066, Election Code, is amended by adding Subsection (e) to read as follows:

(e) Judicial and law enforcement offices shall appear on the ballot in the same format as the other offices but under the heading "Judicial and Law Enforcement Offices" after the listing of the other offices.

SECTION ____ . Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.0661 to read as follows:

Sec. 52.0661. SEPARATE LISTING OF UNOPPOSED JUDICIAL AND LAW ENFORCEMENT CANDIDATES. (a) Any unopposed candidates for judicial or law enforcement offices shall be listed separately on the ballot under the heading "Uncontested Judicial and Law Enforcement Races" following the contested judicial and law enforcement races.

(b) In the general election for state and county officers, the party alignment of each unopposed candidate for a judicial or law enforcement office shall be indicated next to the candidate's name.

(c) The secretary of state shall prescribe any procedures or instructions necessary to implement this section.

SECTION ____ . Section 52.070(b), Election Code, is amended to read as follows:

(b) Immediately below "OFFICIAL BALLOT" and "Judicial and Law Enforcement Offices," if applicable, the following instruction shall be printed: "Vote for the candidate of your choice in each race by placing an 'X' in the square beside the candidate's name."

SECTION ____ . Section 52.071, Election Code, is amended to read as follows:

Sec. 52.071. VOTING SQUARE AND INSTRUCTION FOR STRAIGHT-PARTY VOTE. (a) On a ballot on which a party column appears in connection with offices other than judicial or law enforcement offices, a square larger than the square prescribed by Section 52.070(a) shall be printed to the left of each political party's name.

(b) The following instruction shall be added to the instruction required by Section 52.070(b) in connection with offices other than judicial or law enforcement offices: "You may cast a straight-party vote (that is, cast a vote for all the nominees of one party, except nominees for judicial or law enforcement offices) by placing an 'X' in the square beside the name of the party of your choice. If you cast a straight-party vote [~~for all the nominees of one party~~] and also cast a vote for an opponent of one of that party's nominees, your vote for the opponent will be counted as well as your vote for all the other nominees of the party for which the straight-party vote was cast."

SECTION . Section 52.092, Election Code, is amended to read as follows:

Sec. 52.092. OFFICES REGULARLY FILLED AT GENERAL ELECTION FOR STATE AND COUNTY OFFICERS. (a) For an election at which offices regularly filled at the general election for state and county officers are to appear on the ballot, the offices shall be listed in the following order:

- (1) offices of the federal government;
- (2) offices of the state government:
 - (A) statewide offices;
 - (B) district offices;
- (3) offices of the county government:
 - (A) county offices;
 - (B) precinct offices.

(b) Offices of the federal government shall be listed in the following order:

- (1) president and vice-president of the United States;
- (2) United States senator;
- (3) United States representative.

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) state treasurer;
- (6) commissioner of the General Land Office;
- (7) commissioner of agriculture;
- (8) railroad commissioner [;
- ~~[(9) chief justice, supreme court;~~
- ~~[(10) justice, supreme court;~~
- ~~[(11) presiding judge, court of criminal appeals;~~
- ~~[(12) judge, court of criminal appeals].~~

(d) District offices of the state government shall be listed in the following order:

- (1) member, State Board of Education;
- (2) state senator;
- (3) state representative;
- (4) ~~[chief justice, court of appeals;~~

- ~~[(5) justice, court of appeals;~~
~~[(6) district judge;~~
~~[(7) criminal district judge;~~
~~[(8) family district judge;~~
~~[(9)] district attorney;~~
~~(5) [(10)] criminal district attorney.~~
- (e) County offices shall be listed in the following order:
- (1) county judge;
 - (2) ~~[judge, county court at law;~~
 - ~~[(3) judge, county criminal court;~~
 - ~~[(4) judge, county probate court;~~
 - ~~[(5)] county attorney;~~
 - (3) ~~[(6)] district clerk;~~
 - (4) ~~[(7)] district and county clerk;~~
 - (5) ~~[(8)] county clerk;~~
 - ~~[(9) sheriff;~~
 - ~~[(10) sheriff and tax assessor-collector;]~~
 - (6) ~~[(11)] county tax assessor-collector;~~
 - (7) ~~[(12)] county treasurer;~~
 - (8) ~~[(13)] county school trustee (county with population of two million or more);~~
 - (9) ~~[(14)] county surveyor;~~
 - (10) ~~[(15)] inspector of hides and animals.~~
- (f) Precinct offices shall be listed in the following order:
- (1) county commissioner;
 - (2) ~~[justice of the peace;~~
 - ~~[(3) constable;~~
 - ~~[(4)] public weigher.~~
- (g) Judicial and law enforcement offices shall be listed in the following order:
- (1) chief justice, supreme court;
 - (2) justice, supreme court;
 - (3) presiding judge, court of criminal appeals;
 - (4) judge, court of criminal appeals;
 - (5) chief justice, court of appeals;
 - (6) justice, court of appeals;
 - (7) district judge;
 - (8) criminal district judge;
 - (9) family district judge;
 - (10) judge, county court at law;
 - (11) judge, county criminal court;
 - (12) judge, county probate court;
 - (13) sheriff;
 - (14) sheriff and tax assessor-collector;
 - (15) justice of the peace;
 - (16) constable.
- (h) ~~[(g)]~~ If two or more offices having the same title except for a place number or other distinguishing number are to appear on the ballot, the number shall appear as part of the office title and the offices shall be listed in numerical order.

(i) ~~(h)~~ The secretary of state shall assign a place number to each position to be filled at the general election for state and county officers for each full or unexpired term in the following offices:

- (1) justice, supreme court;
- (2) judge, court of criminal appeals; and
- (3) justice, court of appeals in a court having a membership in excess of three, if distinguishing the positions to be filled is necessary.

(j) ~~(i)~~ The secretary of state shall designate the position of new offices on the ballot.

(k) ~~(j)~~ The office of judge of a multicounty statutory county court created under Subchapter D, Chapter 25, Government Code, is considered to be a county office for purposes of listing the office on the ballot and to be a district office for all other purposes under this code.

SECTION . Subsections (b) and (c), Section 65.007, Election Code, are amended to read as follows:

(b) Except as provided by Subsection (c), each straight-party vote shall be tallied for the party receiving the vote instead of being tallied for the individual candidates of the party. The total number of straight-party votes tallied for each party shall be added to the total votes received for each of the party nominees individually, except nominees for judicial or law enforcement offices.

(c) If a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party's nominees, a vote shall be counted for the opponent and for each of the party's other nominees, except nominees for judicial or law enforcement offices, whether or not any of those nominees have received individual votes.

SECTION . Subchapter A, Chapter 124, Election Code, is amended by amending Section 124.003 and by adding Section 124.0031 to read as follows:

Sec. 124.003. SEPARATE LISTING OF UNOPPOSED CANDIDATES~~[-BLOC VOTING]~~. (a) Any unopposed candidates, except candidates for judicial or law enforcement offices, may be listed separately under the heading "Uncontested Races" on a voting system ballot or ballot label.

(b) In an election in which the ballots indicate political party alignment, the party alignment of the candidates listed under the uncontested races heading shall be indicated next to the candidate's name.

(c) Candidates listed under the uncontested races heading may be arranged in a manner requiring voting on them as one or more groups ~~[bloes]~~, but only if an additional ballot or ballot label would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(d) The requirement that the ballot or ballot label be arranged to permit straight-party voting does not apply to candidates listed under the uncontested races heading.

Sec. 124.0031. SEPARATE LISTING OF UNOPPOSED JUDICIAL AND LAW ENFORCEMENT CANDIDATES. Candidates listed under the uncontested judicial and law enforcement races heading may be arranged in a manner requiring voting on them as one or more groups, but only if

an additional ballot or ballot label would otherwise be necessary to accommodate all the candidates and propositions to be listed.

SECTION . Section 124.061(b), Election Code, is amended to read as follows:

(b) A punch-card ballot label may comprise as many separate sheets as are necessary to list the candidates and propositions stating measures to be voted on in an election. If more than one sheet is used, the first sheet of the sequence must ~~shall~~ indicate the fact that the ballot is continued on one or more additional sheets and must indicate the sheet on which the listing of judicial and law enforcement offices, if any, begins. Sheets in the same sequence may be identified by any method that will facilitate voting or ballot processing and not confuse the voters.

SECTION . Section 124.063(a), Election Code, is amended to read as follows:

(a) An electronic system ballot on which a voter indicates a vote by punching a hole in the ballot must contain the following instruction if candidates are to be voted on: "Vote for the candidate of your choice in each race by making a punch hole in the space provided adjacent to the name of that candidate." The ballot must contain the same instruction in conjunction with any judicial or law enforcement offices appearing on the ballot. If a proposition appears on the ballot, the ballot must contain the following instruction: "Make a punch hole in the space provided beside the statement indicating the way you desire to vote."

The amendment was read.

On motion of Senator Patterson and by unanimous consent, the amendment was withdrawn.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Brown, Parker, and Sibley asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 309 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.B. 309 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 23, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Henderson, Luna, Madla, Moncrief, Montford, Nelson, Patterson, Ratliff, Rosson, Shapiro, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris of Tarrant, Harris of Dallas, Parker, Shelley, Sibley, Sims.

Absent: Leedom, Lucio.

**COMMITTEE SUBSTITUTE
SENATE BILL 31 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 31, Relating to minimum standards for smoking in certain public places or at certain public meetings; creating an offense and providing penalties.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 31 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 31** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Barrientos.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Nelson and Barrientos asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 1445 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1445, Relating to the establishment of fiscal years in certain municipalities.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1445 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1445** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 697 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 697, Relating to a pilot program for the inclusion of students with disabilities in the regular classroom.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Amend **S.B. 697** in SECTION 2, Section 16.151, as follows:

(1) On page 1, line 20 following "exceed", strike "\$5 million" and add "\$2 million"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 697 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 697** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 315 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 315, Relating to a promotion and development fund of a navigation district.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 315 ON THIRD READING

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 315** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 883 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 883, Relating to enforcement by a municipality of water and air quality standards; providing a penalty.

The bill was read second time.

Senator Shelley offered the following amendment to the bill:

Amend **C.S.S.B. 883** as follows:

On page 1, beginning on line 65, replace the period with a semi-colon and add the following proposed Subsection (11) to read as follows:

"(11) provided that a civil action allowed under subsections (9) and (10) of this section may be brought against violations of an ordinance in the extraterritorial jurisdiction of a municipality only when the violations involve construction projects."

On page 2, on line 23, delete the period and add the following:
"and, in the extraterritorial jurisdiction of a municipality, when the violation involves construction projects."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 883 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 883** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Armbrister.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 842 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 842, Relating to fire prevention and fire-fighting support activities of the Texas Forest Service.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Amend H.B. 842 as follows:

SECTION 2., Sec. 88.177. (b) add the following sentence after "account.":

"This program will be funded through private gifts, grants, or assistance."

SECTION 3. Delete SECTION 3 of H.B. 842 and renumber the remaining portions of the bill accordingly.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

(Senator Armbrister in Chair)

HOUSE BILL 842 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 842 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 903 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 903, Relating to payroll deductions for state employees for credit union membership and for contributions to charitable organizations; making an appropriation.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Amend C.S.H.B. 903 as follows:

(1) In Section 2 of the bill, insert a new Section 15 to added Article 6813h, Revised Statutes, to read as follows:

Sec. 15. APPLICATION OF CONTRIBUTIONS. (a) A participating charitable organization may use contributions under this article only for the announced purposes of the organization.

(b) A participating charitable organization may not use contributions under this article to:

(1) conduct litigation; or

(2) make expenditures that would require the organization to register under Chapter 305, Government Code, if the organization were not an entity exempt from registration under that chapter.

(2) In Section 2 of the bill, renumber existing Sections 15, 16, 17, and 18, Article 6813h, Revised Statutes, as Sections 16, 17, 18, and 19, respectively.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 903 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 903 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
May 4, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 191, Relating to the disposition of property involved in a criminal offense. (As amended)

S.B. 556, Relating to regulating the taking of crab, molluscan shellfish, and other aquatic life; providing civil and criminal penalties. (As amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE BILL 690 ON THIRD READING

The Senate resumed consideration of C.S.S.B. 690 on its final passage. The bill was read third time and further consideration was postponed earlier today.

Question—Shall the bill be finally passed?

The bill was finally passed by a viva voce vote.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Henderson and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider the following bills today:

S.B. 581
H.B. 273

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider S.B. 34 tomorrow.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Harris of Dallas and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider S.B. 1465 tomorrow.

MEMORIAL RESOLUTIONS

S.C.R. 84 - By Bivins: In memory of the Honorable J. Foster Whaley of Pampa.

S.R. 838 - By Lucio: In memory of Vincent Gonzalez of Brownsville.

S.R. 841 - By Turner: In memory of Hazel Adams Richardson of Bryan.

S.R. 843 - By Turner: In memory of Mattie Grace McWhorter Fannin of Madisonville.

S.R. 845 - By Turner: In memory of Lambert John Sladek of Taylor.

CONGRATULATORY RESOLUTIONS

H.C.R. 55 - (Barrientos): Declaring the week of May 3-7, 1993, as "Paraprofessional and School-Related Personnel Appreciation Week in Texas."

S.C.R. 83 - By Lucio: Commending Little Joe Hernandez for his endeavors on behalf of our youth and expressing appreciation to him for the time he devotes to the cause of education.

S.R. 828 - By Nelson: Recognizing Mary Jo Harms for her selection as the 1993 Woman of the Year by the Springtown Chamber of Commerce.

S.R. 832 - By Nelson: Recognizing Dale Waser, who was selected as the 1993 Man of the Year by the Springtown Chamber of Commerce.

S.R. 833 - By Nelson: Recognizing Mike Medford, who was named Volunteer Fireman of the Year by the Springtown Chamber of Commerce.

S.R. 834 - By Nelson: Recognizing Steve Morgan, who was named Chamber Member of the Year by the Springtown Chamber of Commerce.

S.R. 835 - By Nelson: Recognizing Michael Lee of Marcus High School for his selection as "Mr. Marcus, All American."

S.R. 836 - By Nelson: Recognizing Police Chief Jim Lyons, who was selected as Law Enforcement Officer of the Year by the Springtown Chamber of Commerce.

S.R. 837 - By Nelson: Recognizing Bill Dixon, who was named Public Works Employee of the Year by the Springtown Chamber of Commerce.

S.R. 839 - By Truan: Congratulating Olaya Lizette Solis of Corpus Christi, who will represent Texas in the National Spelling Bee in Washington, D.C.

S.R. 840 - By Turner: Recognizing Edward "Chief" Johnson, who was selected for the 1993 Citizen of the Year Award by the Fairfield Chamber of Commerce.

S.R. 842 - By Turner: Recognizing the Anderson County Chapter of the American Red Cross on the occasion of its 75th anniversary.

S.R. 844 - By Turner: Recognizing Janice Hensen, who was the posthumous honoree when the Fortnightly Club of Brenham selected her as Outstanding Clubwoman Volunteer of 1992.

S.R. 846 - By Turner: Congratulating Bill and Nadine Reynolds on the occasion of their 50th wedding anniversary.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 1:05 p.m. adjourned until 10:30 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 4, 1993

STATE AFFAIRS — C.S.S.J.R. 30, C.S.S.B. 691, C.S.S.B. 1001

NATURAL RESOURCES — C.S.S.B. 1345, C.S.S.B. 575, S.B. 649

JURISPRUDENCE — H.B. 1297, H.B. 452, H.B. 360, H.B. 1828, S.B. 1457, S.B. 1398, S.B. 1283, C.S.S.B. 1361

NATURAL RESOURCES — S.B. 1040, H.B. 1153

FINANCE — C.S.S.B. 1236, C.S.S.B. 1173, C.S.H.B. 384

NATURAL RESOURCES — S.B. 675, H.B. 2434

JURISPRUDENCE — C.S.S.B. 836, S.B. 1417 (Amended), S.B. 1444, S.B. 1390 (Amended), S.B. 1399 (Amended), S.B. 1416, H.J.R. 57,

H.B. 793, C.S.H.B. 724, H.B. 1239, H.B. 198 (Amended), H.B. 273 (Amended), H.B. 1143, H.B. 1200 (Amended)

CRIMINAL JUSTICE — H.B. 247, S.B. 1282, H.B. 2113, C.S.S.B. 536, C.S.S.B. 1336, H.B. 810, C.S.H.B. 393, H.B. 119, C.S.S.B. 599, C.S.H.B. 261

HEALTH AND HUMAN SERVICES — H.B. 1596, C.S.S.B. 939, C.S.S.B. 1413, C.S.S.B. 91

ECONOMIC DEVELOPMENT — C.S.S.B. 314, H.B. 259 (Amended), H.B. 1173, C.S.S.B. 1023, C.S.S.B. 1409, S.B. 628 (Amended), S.B. 1214, S.B. 1297, S.B. 1311, C.S.H.B. 294, H.B. 156

SIXTIETH DAY

(Wednesday, May 5, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by Senator Rosson.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Brown.

A quorum was announced present.

Dr. Steven Wright, Pastor, Park Hills Baptist Church, Austin, offered the invocation as follows:

Father, how we thank You for the incredible gift of life; how we thank You and honor You as the creator and the sustainer of the universe; and how we bless You that You are intimately involved in the affairs of humankind; and how we lift up these that are gathered here today, Father, on Cinco de Mayo, which denotes that wonderful spirit of independence; and how we thank You, Father, for these men and women who deliberate the affairs of our state. We pray that You might give them wisdom that is not their own; that You might give them six senses beyond their natural senses to see into the hearts and into the minds of the people of this great state, to meet their needs in their deliberations. How we pray for them, especially in the complexities that are before them. We lift them up as they consider the needs of our educational system and all the other matters that pertain to the livelihood of our state. Thank You so much for the blessings that we have in Texas. Thank You for the independence that we experience as a nation, and how we pray for these that are in authority over us that